Deloitte.

End of Service Gratuities in the DIFC

Are you change ready?

November 2020

MAKING AN IMPACT THAT MATTERS since 1845

Introduction

The requirement for mandatory funding for End of Service Gratuities ("ESG") in the Dubai International Financial Centre ("DIFC") took effect from 1 February 2020. The appointment of a master trustee and trust administrator in August 2019, followed by implementing Regulations and Law which came into force in January 2020, were key steps taken by the DIFC to overhaul the existing system of gratuities in favour of fully funded workplace savings provision for employees.

We consider these changes and the impact for employers in brief below.

Background

The DIFC's Regulations – the "Employment Regulations (Qualifying Scheme requirements under Article 66 of the Law)"—were enacted on 14 January 2020, and gave employers until 30 April 2020 to fully fund a workplace savings plan for all DIFC based employees, including backdated contributions to 1 February 2020 when the Regulations took effect.

The biggest change introduced through the new regime is a mandatory obligation to fund future liabilities, whereas previously there was no such requirement. The Regulations introduced a funded DIFC Employee Workplace Savings ("DEWS") plan, to which employers could contribute to meet their obligations, and its use is mandatory for all employers operating in the DIFC zone, unless they have elected to establish a qualifying alternative scheme ("QAS"), which must be approved by both the DIFC and the Dubai Financial Services Authority ("DFSA"). Funded workplace savings replaces the previous system of paying ESG to employees on ceasing service and applies from 1 February 2020.

What was the objective in introducing the changes?

Introducing a clear legal and regulatory framework for savings with effect from 1 February 2020 brought the DIFC into line with many other jurisdictions around the world by encouraging and promoting the importance of longer term funded employee savings.

Employers had until 30 April 2020 to register and enrol their DIFC based employees and to set up monthly contributions into the DEWS plan or their certified QAS, on behalf of these individuals. They were also required to fully fund contributions from 1 February 2020 by this date.

Who do these changes affect and how?

In short, all DIFC employers and their employees.

Some of the other key changes introduced from 1 February 2020 mean that employees no longer need to work for a minimum period of one year before accruing an entitlement under DEWS (or a QAS). This is in contrast to the previous ESG system, whereby no entitlement accrues in the first year of employment. In addition, the previous (and somewhat subjective) exceptions to paying ESG will no longer apply. Therefore, an employee is now entitled to their DEWS (or QAS) benefits on leaving employment, regardless of when they leave and their reasons for leaving.

What are the key dates?

- **30 May 2019**—The date that the DIFC's legal framework for funded workplace savings (the Employment Law DIFC Law No.2 of 2019) was introduced, effective as of 28 August 2019.
- **August 2019**—Details of the DEWS master trustee and administrator were announced.
- **12 January 2020**—The date on which the new Regulations were enacted.
- **1 February 2020**—The new regime applies. Existing ESG accruals cease and mandatory funding applies for all employers operating in the DIFC, although employers had until 30 April 2020 to make contributions to fund plans fully.
- **31 March 2020**—The deadline by which employers who wish to establish a QAS had to submit an application for a Certificate of Compliance, in the manner and form prescribed by the Board of Directors of the DIFC Authority.
- **30 April 2020**—The employer deadline for making contributions into a funded workplace savings scheme (whether the DEWS plan or a QAS), ensuring that contributions were back dated to 1 February 2020
- **October – November 2020**—Employers intending to establish a QAS for the 2021 funding cycle should determine their strategy and approach.
- **31 March 2021**—Employers who intend to establish a QAS for the 2021 funding cycle are required to hold a Certificate of Compliance from the DIFCA by this date.

What are the key considerations and actions for employers?

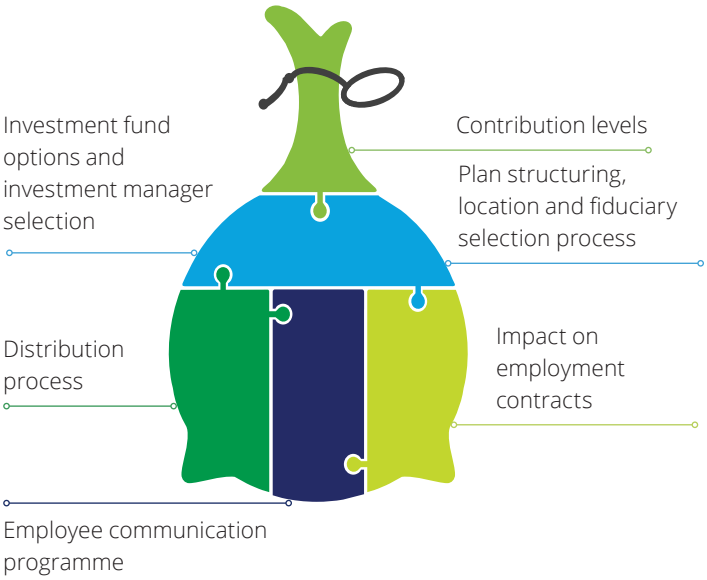
First and foremost, employers need to understand their obligations under the "new" system. Operating in a fully funded regime presents challenges ranging from systems readiness, through to cash-flow modelling and employee communications.

Employers will have taken some important decisions about their approach to the new regime. For example, whether they decided to participate in the DEWS (at least for the short term) or to implement a QAS? In determining their approach, employers may well have been focussed on their wider global philosophy on workplace savings, and whether a QAS could be a more efficient vehicle to deliver these benefits.

The timing of the publication of the DIFC's guidance, and the final Regulations left, a very limited timeframe for employers to act on the above, and in particular, to decide whether they intended to participate in DEWS or to introduce a bespoke arrangement for their employees in advance of the 1 February 2020 go live date. Employers who chose DEWS initially may therefore wish to review this to ensure it remains the most appropriate option for them for 2021.

Next steps

Employers who are considering whether to implement a QAS for 2021 funding will want to focus be focus on the design features that are key for a plan that is "fit for purpose" for their organisation including:



Combining the strength of our global network, Deloitte has built a strong reputation for bringing the right support to our clients in dealing with these challenges. We are able to assist with the various stages of responding to the requirement for introduction of funded workplace savings, helping you to manage key deadlines and to meet your ultimate objectives for your DIFC based employees and beyond.

Who to contact at Deloitte

If you would like to discuss the impact of these proposed changes for your organisation, please speak to your usual Deloitte contact, or one of the following specialists:

UK

Chris Bulleyment
Partner
+44 20 7007 2610
cbulleyment@deloitte.co.uk

Varinder Allen
Associate Director
+44 20 7007 0408
vallen@deloitte.co.uk

Arun Kundi
Consultant
+44 20 3741 2820
akundi@deloitte.co.uk

Dubai

Alex Law
Partner
+97 145 064 891
alexlaw@deloitte.com

Ali Virani
Senior Manager
+97 145 064 903
alivirani@deliotte.co.uk

Deloitte.