CHANGES TO NON-RESIDENT TAX PAYER REGULATION IN BELGIUM

As part of the 6th Belgian State Reform, the Belgian government has adopted the fiscal regionalization of certain tax benefits which will be split between the federal and regional government starting from January 1, 2014. Consequently, certain tax benefits (e.g. mortgage deductions, service vouchers, childcare expenses) will become a regional tax matter while other credits (e.g. lump sum personal tax credits and credits for dependent persons) will remain a federal matter.

As a result thereof, the Belgian government drafted new rules to determine whether a Belgian non-resident tax payer will qualify for the federal and regional tax benefits and, if so, under which circumstances. Generally speaking, as from January 1, 2014, expats with a travel outside Belgium of more than 25% will suffer additional Belgian taxes.

Current categories of non-resident individuals

To determine the tax liability of Belgian non-residents, they were previously divided into four different categories:
1. Non-residents with abode in Belgium;
2. Non-residents who have acquired at least 75% of their worldwide income in Belgium;
3. Privileged non-residents;
4. Other non-residents.

The first two categories were entitled to almost the same tax benefits as Belgian tax residents. The 3rd category was granted pro rata tax benefits. The 4th category was only entitled to a limited number of benefits related to specific investments (i.e. pension savings and service vouchers).

Before the law change, expats benefitting from the Belgian special tax regime residing an entire taxable period (with their family) in Belgium, were considered as non-residents with abode in Belgium, regardless of their number of travel days abroad.

From January 1, 2014: category non-resident with abode abolished

Through the introduction of the new regional tax credit system, the category of non-residents with an abode in Belgium has been abolished, resulting in adverse tax consequences for a lot of expats.

The Belgian government introduced categories of non-resident individuals based on their EEA citizenship and the source of their professional income. From 2014 onwards, having an “abode” in Belgium will no longer be relevant to determine Belgian tax benefits.

The new non-resident categories will be:
1. Non-resident taxpayers, resident in the EEA;
2. Non-resident taxpayers, residing outside the EEA;
3. Other non-residents.

An important consequence of this change will be that expats living with their family in Belgium may lose the regional tax benefits unless they are resident of an EEA State and gain more than 75% of their worldwide income in Belgium. Non-EEA-residents earning 75% of their worldwide income in Belgium, who previously benefited from e.g. real estate tax credits will lose this deduction since they will only be able to benefit from the federal tax benefits (e.g. gifts and childcare expenses). Finally, expats with a travel exclusion of more than 25% will lose all federal and regional tax benefits because they do no longer earn more than 75% of their worldwide income in Belgium.

Questions?
If you would like to know more about whether this new change of law has any impact on your tax position in Belgium, please contact:
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MALTA HIGHLY QUALIFIED PERSONS RULES

The highly qualified persons rules apply to expatriates holding employment under a qualifying contract of employment in an eligible office in Malta. This scheme is aimed at attracting investment in Malta and is industry-specific. It focuses mainly on a narrow range of industries comprising broadly the gaming, aviation, banking, financial, investment and insurance sectors.

These rules stipulate the conditions for a non Malta domiciled highly qualified person to exercise his option for the beneficial/flat rate of tax of 15% on wages instead of the standard tax rates. The income charged to tax at 15% will be deemed to constitute the first part of the individual’s total income. The tax on the remaining income is to be calculated at the standard rates applicable to such individual and the reduced tax rate is available provided a number of conditions are satisfied.

The process of application in order to benefit from the attractive 15% tax rate on qualifying income is as follows:

- The eligible employee must apply to the Malta Financial Services Authority, Lotteries and Gaming Authority or Transport Malta for a formal declaration confirming eligibility to the favourable tax rate;
The employees must submit a prescribed form to the local tax authorities together with his/her tax return annually no later than the tax return date.

After the expiry of such periods, employment income would be chargeable to tax at standard rates. Third country nationals who either physically stay in Malta (on average) for more than 1,460 days or in/directly acquire real rights or hold a beneficial interest over immovable property situated in Malta, shall be deemed to have withdrawn any rights acquired by this legislation.

Questions?
If you want to know if and how the HQPR effects you please contact:
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INTERPRETATION OF TURKISH TAX AUTHORITY’S RECENT RULINGS ON EXPAT TAXATION

Recently, Revenue Administration (Turkish tax authority) announced 2 rulings and provided highly important opinion on expat taxation. In the cases commented by the rulings, two expats were assigned to Turkey for long term (between 1-3 years) period. In the first case an expat was solely on a French based company’s payroll. He was not employed by a Turkish employer. In the other case, the expat was employed by both French and Turkish companies.

In the cases, certain employment costs paid by French companies were allocated to the Turkish companies.

In principle, the tax inspection reports must be compliant with the most recent ruling given by the Revenue Administration for similar case. Therefore, it has become essential for taxpayers to follow the rulings given to other taxpayers.

More importantly, tax auditors on the ground tend to proceed in line with rulings. This trigger tax risks when taxpayers do not proceed in line with rulings.

It is stated in the rulings that the payments made to French companies with respect to allocation should be evaluated within the scope of the article 14th tax treaty. If the required conditions are then this should be considered as an independent professional fee and should be taxed in Turkey.

The authority commented that since the payments are related to a service fee, Turkish companies should calculate VAT through the reverse charge mechanism.

In the rulings the tax authority also claim that if an expat stays more than 183 days in Turkey, then Turkey is authorized by tax treaty to tax the personal income tax of the expats.

Moreover, the authority claims that personal income tax should be collected by Turkish companies through withholding. That means in case of a failure, Turkish companies will be liable for tax and tax fines.

In order to avoid such high tax burden, payment process of expats should be carefully designed. The most and efficient way to avoid any challenge is putting expats on the payroll of Turkish companies and instructing them to pay wages directly to expats. Sole cost allocation should be composed of social security contribution paid on behalf of the expats in their homeland.

Questions?
For more information on how a high tax burden can be avoided please contact:
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US OFFSHORE COMPLIANCE PROGRAMS

In light of the success of its offshore voluntary disclosure initiatives the Internal Revenue Service (IRS) announced a number of important changes to the offshore compliance programs on June 18, 2014. Effective July 1, 2014, these changes, summarized below, are expected to lead to a significant increase in the number of U.S. taxpayers coming forward to report their undisclosed foreign accounts.
2014 OVDP
First, the IRS announced modifications and additions to the offshore disclosure initiative, now called the 2014 Offshore Voluntary Disclosure Program (2014 OVDP). The OVDP is designed to cover U.S. taxpayers whose failure to comply with foreign reporting requirements is considered willful in nature and are seeking certainty and relief from criminal prosecution.

Modified Streamlined Procedures
Second, the IRS also announced modified Streamlined Filing Compliance Procedures (Streamlined Procedures). Non-willful conduct is generally defined as conduct that is due to negligence, inadvertence or mistake, or conduct that is the result of a good faith misunderstanding of the requirements of the law. To encourage these taxpayers to come forward, the IRS expanded the eligibility criteria, and eliminated a cap on the amount of tax owed to qualify for the Procedures.

Simplified Procedures for delinquent foreign information returns
Third, the IRS further announced changes to the simplified procedures for submitting delinquent Report of Foreign Bank and Financial Accounts (FBARs) and delinquent international information returns. Taxpayers who do not need to use either the Streamlined Procedures but who have not filed a required annual FBAR, can use the simplified procedure by filing the forms with a statement explaining why the FBARs are filed late. The IRS will not impose a failure to file penalty if the taxpayer appropriately reported all the income from foreign financial accounts on the originally filed returns.

Conclusion
The IRS, in coordination with the U.S. Department of Justice, continues to investigate foreign financial institutions that may have assisted U.S. taxpayers in avoiding their tax filing and payment obligations.

In addition, July 1, 2014 marks the beginning of the new information reporting regime from the Foreign Account Tax Compliant Act (FATCA) which will go into effect where foreign financial institutions will begin to report to the IRS the foreign accounts held by U.S. persons.

It is important to note that the above voluntary initiatives do not have a specific expiration date and will continue until the IRS decides to terminate them. The IRS retains the authority to change the terms at anytime all the while encouraging taxpayers to act rapidly before the penalty rates are inevitably increased or the programs are closed. The IRS has warned against corrections of past tax returns and foreign bank account reporting forms (FBARs) without entering any of the programs, also known as “quiet disclosures”. The risk is that past non-compliance will be noticed at a later time and it may be too late to make a voluntary disclosure.

Questions?
If you want to know the full details of the changes or need assistance to file your US tax returns please contact:

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