INTRODUCTION

Welcome to the latest issue of our Global Mobility Alert.

As our Global Mobility practice grows the way we organise ourselves (via geographic hubs) is also developing. This edition of our Alert is focused on European news. Further editions will follow focusing on news for each of our other regional hubs.

This Alert will provide a short overview of the latest Global Mobility developments and hot issues.

We hope this Alert is of the greatest interest to you and your organisation and we look forward to any feedback for improving future editions.

Kind regards,

Steve Asher
Head of Mazars Global Mobility Services
TAXATION OF EMPLOYMENT INCOME IN GERMANY

In Germany a new taxation of employment income in the international context has come into effect as of 1 January 2015. These regulations have a binding effect for the tax authority and guarantee a constant taxation method by all German tax authorities. The reason for the amendment has been a modification to the on-going jurisdiction and OECD standards as well as an update of the 2006 circulation.

Practical effects

The practical effects of the taxation process in home and host country relating to Germany are as follows:

Economic Employer

- The economic employer principle is now and for the first time explicitly described in a circulation of the German tax administration.
- The main deviations in comparison to the regulations by civil law are the integration of an employee in the affiliated company and if the affiliated company will bear the personal salary costs of the assignee due to own operational interests or if they have to bear the personal salary costs due to the arm’s length principle.
- In this context, there will be, on the one hand, a connection to the transfer pricing points of view for the evaluation and classification of employment income and, on the other hand, a connection to the economic employer principle based on German wage tax law.

Calculation/determination of days of stay/working days

- The new regulation includes that in case of a DTT conversion into a 12-months period instead of the calendar/fiscal year, the 12-months calculation is also applicable if the beginning extends into the application period of the old DTT.
- In addition, the change of treaty residency during the aforementioned periods needs to be considered. This means that days in which the taxpayer performs working days in the residency country will not be considered within the calculation of the 183-days-ruling.

Treatment of managing directors

- The initial situation is that an individual person conducts a formal employment contract with a group company abroad, but will be supplied to a domestic company in Germany due to a managing contract.
- In the case that the employee is registered as a managing director in the German commercial register, the German host company will be treated as the economic employer as far as the director is integrated in the German company. This shall not apply for the case that the managing director acts only to fulfill an obligation from a service contract and the salary is only a price component of these services.

Conclusion

The new regulations have a practical relevance for global companies and respectively their employees in view of the taxation of several compensations and might occur in a double or non-double taxation in the home and host country.

How can Mazars help?

To understand the impacts of these new regulations for your company and employees please contact your local advisor or Tobias Mackenrodt (tobias.mackenrodt@mazars.de, +49 69 96765 1215).
TAXATION OF REMUNERATION OF TAX NON-RESIDENTS IN CZECH REPUBLIC

Following the change of Czech Law in 2014 it was unclear how to tax the income of Executives (statutory representatives of Czech limited liability entities). However, as of 2015 it was decided that the taxation of Executives should be treated in the same way as taxation of Board Members. In case of Czech tax non-resident Executives this new approach could lead to tax savings in the Czech Republic.

Taxation of Board Members

The taxation of Board Members is in some aspects different compared to the taxation of employees. The remuneration of Board Members is subject to 15% withholding tax. This tax can be final and no personal tax allowances can be applied in the payroll.

Employee’s income

Employee’s income is also subject to 15% income tax. If the income is higher than approximately EUR 45,600 per year, an additional 7% of income tax (solidarity surcharge) has to be paid from the part of the income exceeding this limit. In this case the tax allowances can be applied in the payroll.

Other EU and EEA member states

To avoid any discrimination for tax residents of other EU and EEA member states, Board Members and Executives residing in these states are allowed to file a personal income tax return with the Czech tax authorities after the end of the calendar year. They can declare their remuneration which was subject to withholding tax and apply all tax allowances which can be applied.

If they decide to do this, their income will be taxed in the same way as an employee’s income. This could lead to a higher taxation than if a personal income tax return is not filed.

Board Members and Executives can save money on taxes by filing the personal income tax return as they can apply tax allowances.

If the remuneration is over approximately EUR 45,600 per year (including taxable benefits) it has to be carefully calculated whether the tax saving due to tax allowances will compensate the increase in tax liability due to the application of solidarity surcharge.

How can Mazars help?

If you want to know if the taxation of your remuneration as a non-resident in Czech Republic could lead to tax savings, please contact your local advisor, Gabriela Ivanco (gabriela.ivanco@mazars.cz, +420 224 835 911) or Lenka Vláčilová (lenka.vlacilova@mazars.cz, +420 224 835 813).

VOLUNTARY DISCLOSURE PROGRAMME IN ITALY

The voluntary disclosure programme (“VDP”), which is operative as per 1 January 2015, is designed to allow taxpayers to give full insight, by 30 September 2015, of investments and other assets held abroad, which were not previously disclosed, and report all income in connection thereto.

The programme refers to the fiscal monitoring rules applied on resident taxpayers, which requires to annually disclose, within their tax return, all assets and belongings held abroad (through so-called Form RW). The rule is clearly aimed as an anti-abuse rule, which allows Italy to closely monitor whether taxpayers are declaring income in relation to these foreign assets. Failure to do so is subject to severe penalties.

Who can apply?

The rule is mainly aimed at Italian resident natural persons although also simple partnerships and other non-commercial entities are covered. Furthermore, the VDP is extended to all taxpayers (individuals and corporations) that intend to regularize unreported domestic income.
VDP

The VDP programme criteria is as follows.

• Tax years covered: tax years that are potentially covered depend on a number of factors and whether a tax return was filed or not. The disclosure can cover a maximum of ten years.
• Lump sum taxable basis: to provide for a simplification of calculating the taxable income the taxpayer may opt for a lump sum taxable base. This simplified tax calculation is available for financial assets only.
• Penalty reduction: the taxpayer is able to benefit from a serious penalty reduction in recognizing that the taxpayer has to pay the full amount of any unpaid taxes.
• Exemption from criminal prosecution: the taxpayer will be exempted from a great number of criminal tax offences. However the taxpayer can be punished for criminal law purposes if providing false or incorrect information.
• Impediment: the VDP cannot be used if the taxpayer is formally aware of a tax audit or similar procedure or if subject to criminal law prosecution. Likewise the programme cannot be used if these circumstances are verified upon another taxpayer who is jointly responsible.
• Payment of taxes: the procedure is concluded with the full payment of all income taxes, penalties and interest due. In principle these have to be paid in a single solution but the taxpayer may opt for a payment in three equal instalments. Failure to pay these sums within the provided deadlines means that the taxpayer will lose the benefits from the VDP.

How can Mazars help?

If you would like to know more details of the voluntary disclosure program then please contact your local advisor, Niccolò Bisceglia, niccolo.bisceglia@mazars.it (+39 011 5612722) or Patrick Harteveld (patrick.harteveld@mazars.it, +39 06 6976301).

REFUSAL OF INITIATIVE ON LUMP-SUM TAXATION REGIME ABOLITION IN SWITZERLAND

On 30 November 2014, Swiss voters have turned down the initiative aiming to abolish the lump-sum taxation regime (or forfait) with a clear majority. This important vote provides clarity and legal certainty for taxpayers who opted for this regime and future potential new applicants.

Current legislation and developments

Swiss citizens and foreigners are eligible for lump-sum taxation regime if the following conditions are met:
1. Individuals are taking up tax domicile or residence in Switzerland for the first time or after an absence of at least 10 years.
2. The individuals must not have any lucrative activity in Switzerland.

In this situation, individuals are qualified to pay their taxes based on their expenses rather than on their income. The expenses are estimated based on the taxpayer's incurred living expenses for him and his family in Switzerland and abroad. This will determine a fixed and lump-sum tax base amount (or forfait). The tax base is then subject to the ordinary tax rate applicable in Switzerland. Finally, a control calculation is performed by the tax authorities.

Legislative amendments have been accepted in order to follow the Federal Council’s willingness to tighten the access to the lump-sum taxation regime. As such, the tax base is now determined at least by the highest amount among the below alternatives:
• CFH 400,000 at federal level
• Seven times the housing expense of the taxpayer.
The lump-sum taxation regime will no longer be possible for a “mixed couple”. As a result, both spouses will have to be foreign nationals and each of them will need to meet the eligible criteria for the lump sum-taxation regime. Revised provisions on lump-sum taxation regime will come into force on January 1st, 2016 for federal tax purposes.

The taxpayers that are subject to the lump-sum taxation regime before the entry into force of the new provisions that will come into force the 1st January 2016 will continue to be subject to the old legislation at federal, cantonal and communal levels for a transitional period of 5 years (new legislation applicable only since the 1st January 2021).

Conclusion

Despite the vote of the Swiss citizens maintaining the status quo regarding the lump-sum taxation regime, foreign taxpayers who benefit of this regime should take care of future slight modifications of the practice of the tax authorities.

For high net worth individuals who would like to take up residence in Switzerland, the lump-sum taxation regime will continue to constitute a useful compliant tax planning tool and a pragmatic approach for the taxation of foreign-source income and wealth.

How can Mazars help?

If you want to know more about lump-sum taxation please contact your local advisor, Serge Migy (serge.migy@mazars.ch, +41 21 310 49 17) or Deborah Joye (deborah.joye@mazars.ch, +41 21 310 49 24).
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