Global Taxation Update - Recent Tax Updates From Around The World

AUSTRALIA

How the proposed changes to Superannuation might affect you

In January the Government presented parliament with the legislation containing the superannuation system reforms, first announced in the 2016/17 budget. It aims to address the needs of Australia's ageing population and increase the flexibility of the superannuation system.

The Changes At A Glance

The changes will take effect from 1 July 2017, (unless another date is otherwise mentioned below) and will affect numerous aspects of superannuation, of which the main changes are briefly summarised below.

Most of the changes are targeted at high income earners who make up a very small percentage of the population; however, some existing concessions are being extended to benefit a larger percentage of low income earners.

How This Might Affect You

Capital Gains & The Aud 1.6 Million Cap

For individuals who are required to reallocate assets from the retirement phase to the accumulation phase prior to 1 July 2017 to be in line with the AUD 1.6 million cap, there

	What is the change?	Who is affected?
Transfer balance cap	The total amount of superannuation that can be transferred into the tax-free retirement phase will be capped at AUD 1.6 million per individual; any remaining balance will sit in an accumulation account and be taxed at 15%.	Less than 1% of Australian superannuation fund members.
Concessional contributions	Division 293 tax is imposed to align the tax concessions of superannuation contributions received by high-income earners to that of the average-income earner. The Division 293 tax threshold will be lowered by AUD 50,000 to earnings greater than AUD 250,000 The annual before-tax (concessional) super contributions cap will also be reduced by AUD 5,000 to AUD 25,000	The change to the Division 293 tax threshold will affect high income earners, which is around 1% of fund members The change to the concessional contributions cap will affect around 3.5% of fund members.
Non-concessional contributions	An AUD 100,000 annual non-concessional contributions cap will be imposed, however, individuals with super balances over AUD 1.6 million will not be able to make any further non-concessional contributions.	Less than 1% of Australian fund members.
Catch-up concessional contributions	From 1 July 2018, individuals with super balances less than AUD 500,000 will be able to carry forward their unused concessional cap for up to 5 years.	Expected to help around 230,000 workers whose income fluctuates significantly from year to year or who have an extended period of time away from work.
Personal superannuation contribution deductions	All individuals under 65 will be able to claim a tax deduction for personal super contributions up to the concessional cap.	Expected to benefit just under 1 million fund members, particularly those who are self-employed and earn salary and wages from an employer.
Low income superannuation tax offset	To avoid low income earners (individuals earning less than AUD 37,000) paying more tax on super contributions than on their take home pay, a tax offset will be available for the tax paid on super contributions, to a limit of AUD 500.	The tax saving will benefit 3.1 million low income earners, including 1.9 million women.
Spouse tax offset	A tax offset of up to AUD 540 will now be available to more individuals who make super contributions to their spouse, as the recipient spouse income cap has been extended from AUD 10,800 to AUD 40,000.	The tax saving is expected to assist 5,000 couples.

are transitional provisions allowing the cost base of those assets to be reset to market value as at the date of transfer by deeming the asset to be disposed of and reacquired at that date at its market value. This means that only the gains that accrue from the date of transfer (prior to 1 July 2017) onwards will be taxed under the capital gains tax regime upon disposal. However, it also means the CGT discount will not be available if the asset is disposed of within 12 months of the transfer. Please note that as stated in the explanatory materials to the legislation, where assets are already partially supporting accounts in the accumulation phase (i.e. a non-segregated fund), tax will be paid on that proportion of the capital gain made prior to 1 July 2017, however, the tax may be deferred until the asset is sold, for up to 10 years.

Division 293 Tax

From BDO's immediate tax perspective, the changes are likely to impact senior executives, specifically in regard to the Division 293 Tax, as more individuals will be caught by the lower income threshold. Division 293 Tax is often overlooked, so it's a good reminder for employers to review their expat assignment and tax equalisation policies to ensure the additional tax is considered, and inform the employees who may now be affected.

BDO Comment

Individuals should consider the impact these changes will have on their retirement planning and discuss the superannuation changes with their financial planner before 1 July 2017 to ensure their retirement plan is in line with the proposed legislation and remains tax effective once the law passes.

IRELAND

Significant changes to Irish payroll obligations on non-Irish employments exercised in Ireland

The Irish Revenue released an e-brief on 22 December 2016 setting out a number of updates to Statement of Practice (IT/3/07), entitled Pay As You Earn (PAYE) system - Employee payroll tax deductions in relation to non-Irish employments exercised in the State.

The most significant amendment to this Statement of Practice is the publication of the Revenue's interpretation of Article 15 (the Employment Article) of the OECD Model Tax Convention on Income and Capital in the context of temporary assignees and short-term business travellers.

The amendments to the Statement of Practice will now significantly limit the circumstances in which foreign employers can apply for an exemption from Irish payroll tax. In fact, this new approach by the Revenue will bring a significant majority, who spend more than 30 workdays in Ireland in a tax year, within the scope of Irish tax.

Key Change- Article 15 Interpretation

Prior to the publication of this e-brief, where an employee of a non-Irish employer performed duties in Ireland, but was present in Ireland for less than 183 days, it may have been possible to claim income tax relief where certain additional conditions were met.

One of these conditions was that the remuneration of the temporary assignee was paid by, or on behalf of, an employer who was not a resident of Ireland. In effect, a foreign employment.

Historically, the Revenue had treated a foreign employment as one where the employee was legally employed and physically paid by a non-Irish company, provided that company did not have a taxable corporate presence, such as a branch, in Ireland.

The Revenue has now significantly revised this position and are no longer prepared to accept, for the purposes of granting a release from the obligation to operate the PAYE system, that the remuneration is paid by, or on behalf of, a foreign employer if the individual is;

- Working for an Irish employer where the duties performed by the individual are an integral part of the business activities of the Irish employer, or
- Replacing a member of staff of an Irish employer, or
- Gaining experience working for an Irish employer, or
- Supplied and paid by an agency (or other entity) outside the State to work for an Irish employer.

In addition, the release from the obligation to operate the PAYE system will not be granted;

(i) Simply because the remuneration is paid by a foreign employer and charged in the accounts of a foreign employer, or

(ii)Where the remuneration is paid by a foreign employer and the cost is then re-charged to an Irish employer.

It should be noted that the Revenue has confirmed that the existing exemption for non-operation of the PAYE system for non-resident employees performing incidental duties in Ireland for no more than 30 days in aggregate in a tax year will remain in place. This exemption will apply for business travellers from both Double Taxation Agreement (DTA) and non DTA countries.

Summary

In recent times, we have found the Revenue's approach to the application of the Statement of Practice to be inconsistent. While it could be argued that this updated position should theoretically address this issue, the consequences of this approach may significantly increase the compliance obligations and the costs of these assignments for the foreign employer.

Given the subjective language being used by the Revenue - "integral part of the business activities", "gaining experience" – and the lack of any guidance on these terms, it is difficult to envisage scenarios in which an Irish PAYE Clearance will be granted to a foreign employer once duties are performed for an Irish company.

BDO Comment

We strongly recommend that non-resident employers (in conjunction with associated Irish businesses) should now review their current and proposed temporary assignments to Ireland to ensure there are sufficient controls and procedures in place to manage their Irish PAYE obligations.

SWEDEN

Proposition for new legislation introducing monthly filing obligations for employers in Sweden

As a measure to reduce tax fraud and tax evasion and to allow the tax authorities direct access to certain details in respect of compensation paid out to employees, it is proposed that employers will be required to file a monthly report to the Swedish Tax Authority detailing each employee's compensation at an individual level.

The proposed new filing obligation would replace the employer's current monthly filing of payee returns where the companies report income, preliminary taxes and employer contributions for all employees as lump sums.

With the new system it is proposed that the current possibility to file payee returns on paper is abolished and that the information would need to be filed electronically - either through a file transfer via the Swedish Tax Agency's website or by manually registering the information for each payee online.

If adopted the changes are proposed to come into effect as of 1 January 2019. However, for employers who are required to keep personnel books ("personalliggare") and have more than 15 employees, the new regulations may come into force from 1 July 2018.

BDO Comment

Tax authorities globally are clamping down on tax avoidance and evasion with digital methods of filing becoming ever more prevalent. The Swedish tax authorities are no different and measures to combat non-payment of tax are only likely to increase.

UNITED KINGDOM

Scottish Tax Rate Threshold - 2017/18

The Scottish government has announced that they will be raising the higher rate threshold to GBP 43,430 from 6 April 2017 in line with inflation. The threshold in the rest of the UK will rise to GBP 45,000. Although the Scottish government has had certain income tax powers for some years, this is first time they have exercised their right.

BDO Comment

Companies with Scottish tax payers will need to ensure that their payroll systems can administer two different tax thresholds. Higher earners in Scotland will be paying marginally more tax than those in the rest of the UK. The position may of course change significantly in the future should Scotland vote to become independent.

Update On Changes To The UK Non-Domicile Tax Rules

After a seemingly never ending period of uncertainty we now have the draft legislation containing changes to the taxation of non-UK domiciled individuals. The legislation will be effective as of 6 April 2017.

Who Are Non–Domiciled Taxpayers?

Generally these are individuals (including those on international secondments) who were born outside of the UK and come to the UK without the intention of establishing a permanent home in the UK. Non-domiciled taxpayers have historically been entitled to tax relief in the UK that domiciled taxpayers have not been entitled to, e.g. the ability to not be taxed on offshore investment income which is paid and kept outside the UK.

Summary Of The Updates

The update covers the key proposals, including the following:

- The new deemed domicile rule. From 6 April 2017, any non-UK domiciled individual who has been resident in the UK in at least 15 of the past 20 UK tax years will become deemed UK domiciled for income, capital gains and inheritance tax purposes
- Any individual who was born with a domicile of origin in the UK will automatically be treated as domiciled in the UK for all tax purposes if they are resident in the UK from 6 April 2017
- Rebasing for offshore assets for individuals who become deemed domicile on 6 April 2017 under the above rule. It may be possible to rebase certain types of offshore assets to uplift the base cost to the value as of 6 April 2017, so that the amount chargeable for capital gains upon sale is therefore reduced. Certain conditions will apply (including the necessity to have paid the remittance basis charge at some point)
- A grace period to unravel or "cleanse" offshore mixed fund bank accounts. This relates to offshore accounts which contain unremitted "mixed funds" (i.e. unremitted overseas income, gains and clean capital). Here it is proposed for HMRC to allow a temporary window of 2 years for individuals to unravel such accounts where clean capital can be separated into a separate offshore account and, if so wished, for this to be remitted tax free into the UK whilst being able to leave the unremitted untaxed income offshore. Again, there are certain conditions that will need to have been met.

Impact Of Rule Changes On Individuals On International Secondments

It is anticipated that there will be limited impact on most individuals seconded into the UK on the basis that the changes will mostly affect inbound individuals that have been resident in the UK for 15 of the last 20 years. However, if you have non-domiciled individuals that have been working for you in the UK for that length of time the rule changes should be brought to their attention so that they can take action prior to the deadline.

A key issue that individuals working in global mobility will have to keep an eye out for is individuals that are being seconded to the UK, who were originally from the UK, but have established a long-term home outside the UK. Historically these individuals might have been able to complete a secondment in the UK without re-establishing their UK domicile, but this will not be the case from 6 April 2017 onwards. As such it is vital that they and their employers consider the tax implications of their secondment in advance of the move.

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