Global Tax Update

Budget proposals across the globe bring significant changes ahead.

The UK, Hong Kong and Cananda have all made announcements in their 2024/25 Budgets to bring in sweeping changes. The UK is abolishing the current favourable tax regime for UK resident non-domiciled individuals and replacing it with a shorter beneficial tax regime with a residence based test. Canada has announced, most notably, the increase in the capital gains inclusion rate from one-half to two-thirds, effective June 25, 2024. In Hong Kong, there is a reduction in salaries tax and tax under personal assessment.

Additional details and guidance regarding the implementation of these rules, are expected in the coming months.

BELGIUM, NETHERLANDS & GEMANY

Clarification of PE and home office rules

Belgium, the Netherlands and Germany have all recently clarified permanent establishment (PE) for home office rules.

Since the Covid pandemic, a hybrid work pattern has become a permanent way of working for many employees. However, in a cross-border context, working from home can have many consequences on both the employee's tax and/or social security position, as well as the employer's tax position. For example, a home office can create a PE for the employer in the employee's country of residence.

What Is A Permanent Establishment?

Simply put, a PE is the presence in a country (Country A) of a company that is resident in a different country (Country B), that meets certain conditions, and in doing so, triggers local compliance requirements in Country A. When the conditions defined in double tax agreements are met, and a PE is deemed to be present, the right to tax profits of the company located in Country B will shift to Country A.

When employees work from home, the situation that is created in a cross-border context could appear to fall within the definition of PE.

BDO Comment

Belgium and the Netherlands have signed a competent authority agreement to offer guidance to employers regarding whether employees working from a home office in their home country establishes a PE for their employer in that home country. It is the duties, and the frequency of these duties, that are carried out at home that need to be considered, as well as the conditions of the employment contract as regards to where the employee is obliged to work.

In the same vein, Germany has issued revised guidelines for the establishment of a PE: working from a home office generally does not create a PE within the meaning of the OECD model tax convention. Unlike Belgium and the Netherlands, Germany does not consider a PE is created where the employer does not provide the employee with an alternative workplace to their home office. But Germany does recognise the situation may be different when an employee performs a management function for the employer and has power of attorney to act and represent the employer.

HONG KONG

2024 Budget

Hong Kong's 2024/25 budget speech announced a reduction in salaries tax and tax under personal assessment for 2023/24 by 100%, capped at HKD 3,000.

The tax reduction will reduce the amount of tax payable for the year of assessment 2023/24.

The budget also proposes the implementation of a two-tiered standard rates regime for salaries tax and tax under personal assessment. For taxpayers chargeable at the standard rate whose net income exceeds HKD 5 million, the first HKD 5 million of net income will continue to be subject to the standard 15% rate. The portion of net income exceeding $5 million will be subject to a standard rate of 16%.

Taxpayers chargeable at progressive rates will not be affected.

BDO Comment

Taxpayers should file their profits tax returns and tax returns for individuals for the year of assessment 2023/24 as usual.

Upon enactment of the relevant legislation, the Inland Revenue Department will effect the reduction for 2023/24 in the final assessment.

The Inland Revenue Department will also apply the two-tiered standard rates in calculating the provisional salaries tax for the year of assessment 2024/25.

UK

Proposed changes to the taxation of non-doms announced in March 2024 Budget

The UK Government announced in the March 2024 Budget proposals to abolish the current favourable tax treatment for UK resident non-domiciled individuals (non-doms) from 6 April, 2025, and replace it with the foreign income and gains (FIG) regime.

Brief Overview Of Proposed Changes

- The FIG regime will allow foreign income and gains to be treated as outside the scope of UK taxation for four tax years, with overseas workdays relief (OWR) remaining restricted to three UK tax years
- Eligibility for the FIG regime will be based on non-UK tax residence in the 10 UK tax years prior to establishing UK tax residency
- In contrast to the non-dom regime, under the FIG regime, foreign income and gains can be brought to the UK tax free
- Transitional rules will apply during the 2025/26 and 2026/27 UK tax years
- Pre-6 April, 2025, (untaxed) foreign income and gains may be remitted and only be liable to a 12% tax rate during the 2025/26 and 2026/27 UK tax years
- For individuals who are neither UK domiciled, nor UK deemed domiciled by 5 April, 2025, who've previously claimed the remittance basis, foreign assets, including shares in their overseas employers, will require an election to be rebased to their value as of 5 April, 2019, and meet other currently unstipulated conditions
- There will be a consultation on how individuals become liable to inheritance tax given this was previously based on an individual's domicile status; going forward, it will be based on the length of UK tax residency.

BDO Comment

Subsequently, the Labour Party has stated they would make some changes to the proposals should they form the next government (an election is due to take place on 4 July 2024). The most significant of the changes is that all foreign assets within trusts would be liable to UK Inheritance Tax, it is likely any transitional relief would be more limited and there would not be a tax discount on remittances in the first year of the new rules.

To keep up to date see: https://tinyurl.com/4tdjm8xj

We expect HMRC to allow applications for section 690 directions, or a new equivalent, so employers can operate PAYE on a reduced percentage of earnings for IMEs (internationally mobile employees) eligible for OWR.

Employers should revisit their global mobility tax policy in view of the potential attractiveness to IMEs of remitting previously unremitted (and untaxed) earnings as a result of the reduced 12% tax

rate. The timing will be particularly relevant to US taxable IMEs given the way a foreign tax credit is claimed for US tax purposes.

There is no change to the National Insurance contributions (NICs) position on earnings relating to overseas workdays. The earnings relating to both UK and non-UK workdays are still liable to NIC.

We await clarification of how other expatriate tax reliefs available to non-doms, such as the foreign travel rules (relocation travel, VISA application, home leave, and travel between overseas and a UK workplace) will be impacted. Previously, these measures were available to non-doms for up to five years, and BDO's representation to HMRC will be that relief for at least this duration should be retained under the FIG regime. We await details of how the rule changes will impact UK resident, and currently non-dom IMEs, and their employers, when dual contract arrangements are in place.

Employer Year End Reporting - Key Dates

There are several important upcoming deadlines for employers to be aware of (or the deadline has already gone), the complexities of the reporting required will vary according to the nature of the business.

Deadlines

- Gender pay gap reporting – 4 April
- Short-term business visitors – 31 May
- Annual PAYE scheme (appendix 8) – 31 May
- P11d reporting – 6 July
- Share plan reporting – 6 July

BDO Comment

There are no extensions, so, clients who do not file on time face penalties and other consequences. If you have missed a deadline the reporting should be brought up to date as soon as you can.

CANADA

2024 budget proposals

Canada's 2024 federal budget includes significant changes for individuals.

Capital Gains Inclusion Changes

Individuals with net gains not exceeding CAD 250,000 will continue to benefit from the one-half inclusion rate. For 2024, the $250,000 threshold will not be prorated and will apply only against capital gains incurred on or after June 25, 2024.

Capital gains can result upon a normal-course disposition of certain assets (for example, shares of public corporations and real estate), but also upon death or upon a cessation of Canadian tax residency.

Stock Option Benefit Changes

The stock option deduction that is currently available upon the exercise of employee stock options is to be decreased to one-third to align with the new capital gains inclusion rate. Individuals would continue to benefit from a deduction of one-half of the taxable benefit from stock options, up to a combined $250,000 for both employee stock options and capital gains. It is unclear whether this will be taken into account at the time the employer must withhold the tax - generally upon the exercising of the stock options - or as a refund with the individual's personal tax return. The latter option may result in increased scrutiny of capital transactions reported on the personal tax return and timing issues for any applicable tax refund.

BDO Comment

The changes discussed in this article may add complexity to a departure from Canada as well as normal - course dispositions but equally presents an opportunity to reassess strategies regarding realising latent capital gains, international moves outside Canada, estate planning, as well as exercising vested stock options. This should be considered in the broader context of a cost-benefit analysis of taxation at a relatively lower rate versus continued investment and taxation at a higher rate in the future.

NETHERLANDS

Reminder, benefits of 30% ruling limitation now in place

Since 1 January, 2024, the scope of the benefits provided by the 30% ruling, which offers tax advantages to highly skilled foreign workers in the Netherlands, has been reduced.

Previously, some foreign employees with specific expertise deemed scarce in the Netherlands received a tax benefit, known as the 30% ruling. If this arrangement was granted, those employees were able to receive a maximum of 30% of their remuneration free of tax, for a maximum of 60 months. The 30% portion of their salary remained untaxed based on the notion that it was meant to cover "extraterritorial expenses" (often referred to as ET costs), the additional costs expatriates incur by working (temporarily) outside their country of origin.

Since 1 January, 2024, the 60-month period has been reduced to a maximum of 20 months and employees that qualify now receive 20% of their remuneration - rather than 30% - tax-free. Then, for a final period of 20 months, the percentage of tax-free remuneration is now 10%, instead of 30%.

Where an employee already had a 30% ruling in place, that is allowed to continue and such employees can continue to opt to include their income on the income tax return as if they were not resident in the Netherlands (so called 'partial non-resident taxpayer status'), which will continue to be available until 31 December, 2026.

BDO Comment

The reduction in the benefit of the 30% ruling has increased the costs of assigning foreign nationals. For new assignments it is worthwhile assessing the benefits of the ruling as compared to the option of reimbursement of actual expenses to determine which option is most appropriate for the employer and the employee.

Employers will need to carefully monitor the shorter time period and the change in the reduction to ensure correct implementation for payroll processing.

> Communicating these changes to your employees remains important

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