INTERNATIONAL EXECUTIVE SERVICES

Thinking Beyond Borders

Management of Extended Business Travelers

TAX

AUDIT ▪ TAX ▪ ADVISORY

Contents

Thinking beyond borders

The management of tax for short term business travelers is a subject that warrants the close attention of business leaders throughout the world. Any senior executive taking the view that this is a responsibility that can be left with the compliance officer, or the HR department, or even the corporate tax department, should think again. Expatriate tax management reaches into all areas of a business; taking it anything other than seriously has the potential to result in problems that can be expensive both in monetary terms and for a company's reputation.

Short term business travel on the rise

Short term business travel is increasing. The days of the professional expatriate who sets up home for a two or three year tour of duty in one country then moves on to another are waning. We now see international commuters throughout the world managing virtual international teams, running global projects and functions. Subject matter experts are critical to success; communications technology helps, of course, but boots on the ground are what gets the job done. Businesses are prioritizing the allocation of resources in the most cost efficient way, sending the people with the necessary skills to where they are needed rather than maintaining establishments of people in place for when they might be needed. European trains are full of commuters busy on their laptops going between countries on business.

This opportunistic approach to business travel contains inherent dangers. When areas of a business adopt a get-up-and-go approach to short term business travel, it is increasingly challenging for the corporate entity to keep track of its people and to know exactly where and when its employees are working. This, naturally enough, can have considerable tax implications.

Tax authorities increasingly strict

It seems to be the case around the world that tax authorities are under increasing pressure to identify and secure ever greater revenues. In response, they are becoming increasingly sophisticated in their methods and correspondingly rigorous in the framing and application of the tax rules. This combined with, in some cases, a somewhat relaxed observation of the rules in the past, makes for a potentially hazardous landscape for the unwary.

For example, ten years ago in China there was a sense that the rules relating to the tax treatment of foreign visiting workers were not particularly clear. This led to a tendency for companies operating there to take the view that the government was not in a position to keep track of who was doing what with regard to visiting business travelers, which in turn made the logistical challenge of keeping track of foreign employees a problem that was relatively easy to ignore. Since that time there has been a vast influx of foreign business travelers to China, particularly in industries such as banking, finance and the automotive business; very often these business travelers do not wish to make China their permanent base. The proximity of Hong Kong (which is treated separately from China with regard to tax) and Singapore and the ease of travel between them and mainland China have contributed to the phenomenon. In the last couple of years there is no question that the Chinese government has begun to address this hitherto somewhat loose state of affairs. The legislation now makes it clear that the onus is firmly on the employer to inform the authorities about its foreign workforce, especially when payments are being made overseas. Penalties for non-compliance are punitive, and so the hidden tax tangle is coming out into the open.

Similarly, in the United Kingdom (UK) the rules have changed recently. Under the Senior Accounting Officer rules which were introduced in 2009, finance directors of companies based there are now required to sign a formal declaration that their company has processes in place to manage its business traveler population, and to be able to demonstrate the integrity of the data they collect in this regard. Moreover, in common with others around the world, the UK tax authority is well aware of the monitoring tools that are available to companies and this awareness is influencing its insistence on full reporting of the movements of global workforces.

Risk Management

Before the economic downturn, risk management was at the forefront of many business leaders' minds. With the downturn, survival became the more urgent order of the day, so risk management took a bit of a back seat. Now, as the health of economies around the world is beginning to revive, we are seeing a return of focus to risk management, and the approach to managing the tax affairs relating to short term business travel is in the spotlight.

The risks associated with expatriate tax planning are not a matter of simple financial risk of fines and penalties, although these are significant and increasingly penal. An additional risk, which is more difficult to quantify in advance, is reputational. When a company or organization falls foul of the tax rules, its standing as a good corporate citizen is compromised and, for most, that is unacceptable. Disputes with immigration authorities, with the security services or possible diplomatic arguments can cause untold damage to a company's reputation and hence to its balance sheet.

Forewarned is forearmed

Tax planning for short-term business travelers is an area that is coming into increasingly sharp focus. Companies need all the help they can get to be sure that they not only comply with the rules but also that they avoid the obstacles that can await the unprepared.

Business travel is a fact of corporate life and it often concerns a company's

most senior, valued employees. As the world's tax authorities take an ever greater interest in the movements of such people working in countries other than their own, it is important that companies take the issue seriously. An employer of business travelers needs to be confidently in command of the company's situation and not unwittingly running risks either to reputation or finances. The penalties for breaching the rules can be expensive in all kinds of far reaching ways; this is an issue for the whole company and its stewards.

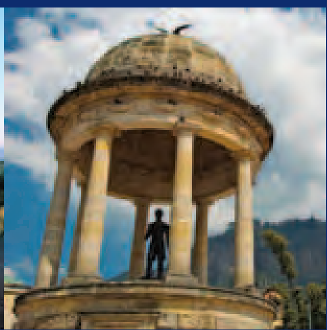
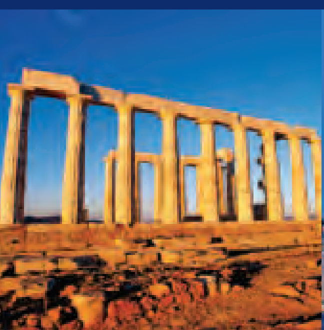
Throughout the following pages, we provide a high-level overview of the taxes and other considerations in countries around the world—information that will be of assistance when planning and managing short-term business travelers.

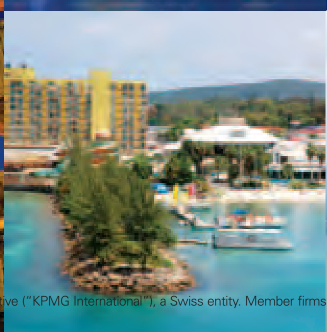
KPMG's International Executive Services





- Argentina
- Australia
- Austria
- Belgium
- Bosnia and Herzegovina
- Brazil
- Brunei Darussalam
- Bulgaria
- Cambodia
- Canada
- Chile
- China
- Colombia
- Costa Rica
- Croatia
- Czech Republic
- Denmark
- Dominican Republic
- Egypt
- Fiji
- Finland
- France
- Germany
- Greece
- Hong Kong
- Hungary
- India
- Indonesia
- Ireland
- Italy
- Jamaica
- Japan
- Lao PDR
- Luxembourg
- Macau
- Malaysia
- Mexico
- Mongolia
- Montenegro
- Netherlands
- New Zealand
- Norway
- Panama
- Papua New Guinea
- Peru
- Philippines
- Poland
- Portugal
- Puerto Rico
- Romania
- Russia
- Saudi Arabia
- Serbia
- Singapore
- Slovakia
- Slovenia
- South Africa
- South Korea
- Spain
- Sri Lanka
- Sweden
- Switzerland
- Taiwan
- Thailand
- Turkey
- Uganda
- Ukraine
- United Kingdom
- United States
- Uruguay
- Venezuela
- Vietnam

Argentina

Introduction

A person's liability to Argentinean tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income, with the exception of foreigners who are in the country for less than six months; these people are assessed for tax at a flat rate.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Argentinean work days.

Income tax

Liability to income tax

A person's liability to Argentinean tax is determined by residence status. A person can be a resident, a non-resident on a 'permanent' basis, or a non-resident for Argentinean tax purposes.

Based on the Tax Reform Bill that was published on 30 December 1998, individuals are considered to be resident in Argentina when:

- They are of Argentine nationality, whether by birth or naturalization, except for those individuals who have lost their residence status
- They are foreign individuals who have become permanent residents of Argentina (and have a permanent visa) or who are not residents but have spent sufficient time in Argentina during a 12-month period.

Generally, individuals who have been resident in Argentina shall lose their residence status when they acquire permanent residence in another country or remain in another country for 12 months or more.

The 1998 law also established a new category of individuals who are considered to be non-residents present in Argentina on a permanent basis. For example, foreign individuals whose presence in Argentina is based on the grounds of employment that is duly accredited and requires their permanency in Argentina for a period not exceeding five years are considered to be non-resident. The same treatment applies to family members who accompany them.

The general rule is that a person who is a resident of Argentina is assessable on his or her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in Argentina. Extended business travelers are likely to be considered non-residents of Argentina for tax purposes.

Definition of source

Employment income is generally treated as being Argentinean-sourced compensation where the individual performs the services while physically located in Argentina.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Argentina. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Argentinean entity is his or her economic employer.

Types of taxable income

For extended business travelers, the type of income that is generally taxed is employment income.

Tax rates

For 2010, net taxable income is taxed at graduated rates ranging from 9 percent to 35 percent for both residents and non-residents. The maximum tax rate is currently 35 percent on income earned over 120,000 Argentine pesos (ARS) in the case of both residents and non-residents. Extended business travelers may be subject to a flat rate if income tax is withheld at source (see the section on employee compliance obligations and employer reporting and withholding requirements).

Social security

Liability to social security

Argentinean nationals and expatriates living in Argentina for more than two years are subject to social security contributions. Social security contribution exemption for the first two years of living in Argentina is granted on request.

Currently, social security taxes represent 17 percent of gross wages. Since March 2010, a monthly cap amount of ARS10,119.08 has been applicable to the employee's contribution; employers' contribution are not capped. In accordance with the laws currently in force, the cap is updated every March and September.

Summary of the Applicable Rates and Taxable Bases for Salaried Persons

	Employer (I) (%)	Employer (II) (%)	Employee (%)
Pension fund	10.17*	12.71*	11.0***
Pensioner's Healthcare Fund	1.50*	1.62*	3.0 ***
Family Allowance Fund	4.44*	5.56*	
Unemployment Fund	0.89*	1.11*	
Medical Care	6.0**	6.0**	3.0***
Total	23.0	27.0	17.0

Source: KPMG in Argentina June 2010

Notes:

(I) Employers for all activities, except commercial and service, invoicing more than ARS48 million a year.

(II) Commercial and service activities invoicing more than ARS48 million a year.

Additional information:

*These percentages apply to the total remuneration without any limit.

**These percentages apply, without any limit, to the total remuneration since November 2008.

***These percentages apply to the total remuneration or to the monthly limit of ARS10,119.08 (taxable salary, called 'MOPRE'), since March 2010.

Argentina has entered into formal social security totalization agreements with approximately 22 countries, including the 20 other Iberoamerican Organization countries, to prevent double taxation and allow cooperation between Argentina and overseas tax authorities in enforcing their respective tax laws.

Compliance obligations

Employee compliance obligations

The deadline for filing individual income tax returns and paying any annual tax due depends on the final digit of the taxpayer's tax board registration number and usually ranges from 15 April to 20 April following the tax year-end, which is 31 December.

Individuals whose only source of income is employment income, which may often be the case with extended business travelers, need not file a tax return if the income was subject to withholding at the source unless their annual gross income exceeds a minimum that is set by the Argentine tax authorities (currently set at ARS144,000) in which case it becomes mandatory.

For many types of income, including any income other than employment income paid to a non-resident, the payer must withhold tax at source and remit it to the tax authorities.

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system. If an individual is taxable with respect to employment income, the employer has a PAYG withholding requirement. Foreigners who are present in Argentina for less than six months are subject to a withholding rate of 24.5 percent on their gross compensation.

Other

Work permit/visa requirements

Foreign nationals generally must obtain visas at Argentine consulates in order to enter Argentina. A waiver of the visa requirement is available to nationals of most developed countries if a trip is brief and for tourism or non-employment business purposes. Executives coming to Argentina for the purpose of engaging in employment must obtain a visa (prior to departure) with the Argentine migratory authorities through the Argentine company that will act as their employer during the assignment.

There are two kinds of visas: temporary resident and permanent resident.

Temporary Resident

A temporary visa (Residencia Temporaria) provides permission for an individual to stay in the country on a non-permanent basis to develop certain activities. This visa is granted for one year, and can be renewed every year. Once they have arrived in Argentina, individuals and their employer can proceed to make arrangements to obtain their DNI (personal ID card in Argentina).

Permanent Resident

A permanent visa provides permission for an individual to stay in the country indefinitely.

Once they have arrived in Argentina, individuals and their employers can proceed to make arrangements to obtain their DNI (personal ID card in Argentina), Argentine driver's license, and tax registration.

The visas for residency and work are not differentiated in Argentina. Therefore, if the individual's spouse or dependants receive visas, they will also be able to work in the country.

Double taxation treaties

In addition to Argentina's domestic arrangements that provide relief from international double taxation, Argentina has entered into double taxation treaties with approximately 18 countries to prevent double taxation and allow cooperation between Argentina and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

The standard rate of VAT is 21 percent. VAT or IVA ('impuesto al valor agregado' in Spanish) is a general tax on consumption within the Argentine territory. It is levied on the delivery of goods or the rendering of services by any person or legal entity conducting an economic activity and on the importation of goods and services.

VAT is levied on:

- The sale by VAT taxpayers of movable property located in Argentina
- Work, leasing, and services specified in the law, provided they are performed in Argentina
- The final importation of movable property
- The use or exploitation in Argentina of services that are supplied by non-residents (i.e. import of services).

For VAT purposes, the concept of taxable 'sale' includes:

- Sales and other transfers for consideration of movable property located in Argentina (payment in kind, allocation of property on the liquidation of a company, contribution to a company).
- The incorporation of movable goods produced by the taxpayer in the case of leasing and rendering of exempt services or those excluded from taxation.
- Transfers of movable goods that are attached to the soil at the time of the transfer, provided they have their own individuality and represent goods in trade for the taxpayer.
- The removal of movable property by the owner for personal use or consumption.
- Transactions carried out by commission agents, consignees, and others who sell or buy personal property in their own name but on behalf of third parties.

Under the VAT system, tax is levied at each stage of the manufacturing and distribution process on a non-cumulative basis. The accumulation of tax is avoided through the deduction of VAT invoiced to an entity. The entity pays VAT on the total amount invoiced by it in each monthly tax period, but is entitled to recover the input VAT that was invoiced to the entity during the same period. If, in any tax period, the credit for input VAT is higher than the amount of VAT due on output, the entity is not entitled to a refund (unless the refund is related to exports). In cases where there is an excess, it is credited against future VAT liabilities.

If a business manufactures taxable supplies in Argentina it will be required to register and account for Argentine VAT. Note that under Argentine VAT legislation, it is not possible for a non-Argentine entity to register voluntarily in Argentina and act as an 'Argentine established entity.' VAT must be filed on a monthly basis.

Transfer pricing

Argentina has a transfer pricing regime that applies to transactions made with foreign affiliates and other entities. More details can be found in Argentine Tax Office Law 20.628 and relevant amendments as well as in Decree 1344/98 and General Resolution No. 1122/01.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, when a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed. Forms F742 and F743 require disclosure of related-party transactions with foreign entities. Management fees can be deductible but must meet an arm's-length standard and be directly related to the income being generated, and the relevant documentation must be kept.

Local data privacy requirements

Argentina has data privacy laws, including the Law for the Protection of Personal Data enacted in 2000 and the related regulations enacted in 2001. The laws are enforced by the National Data Protection Commissioner. The European Union (EU) has determined that Argentina's laws meet the EU's 'adequacy' standard for data flows outside Argentina.

Exchange control

Exchange houses and banks trade foreign currencies freely. A visitor would however be well-advised to travel with US dollars in Argentina as these are exchangeable and are often accepted directly as payment.

Nondeductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Argentinean pension funds and medical insurance premiums.

Australia

Introduction

Income tax

Residents are taxed on worldwide income whereas non-residents and temporary residents are generally taxed on Australian sourced income only.

A person's liability to Australian tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Australian work days.

Liability to income tax

A person's liability to Australian tax is determined by his or her residence status. A person can be a resident, non-resident, or temporary resident for Australian tax purposes. A resident of Australia generally refers to an individual who enters Australia with the intention of remaining for more than six months (or who actually spends more than six months in Australia during an income year). A temporary resident is a resident of Australia who is in Australia on a specific temporary visa and meets other prescribed conditions. A non-resident of Australia is generally someone who spends less than six months in Australia. The general rule is that a person who is a resident of Australia is assessable on his or her worldwide income.

Non-residents are assessed on income derived directly or indirectly from sources in Australia (subject to the interaction of a double tax agreement). Temporary residents are assessed on employment income from all sources derived after arrival in Australia and all Australian-sourced investment income (subject to the interaction of a double tax agreement). Extended business travelers are likely to be considered non-residents of Australia for tax purposes unless they enter Australia with the intention to remain in Australia for more than six months.

Definition of source

Employment income is generally treated as Australian-sourced compensation where the individual performs the services while physically located in Australia.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Australia. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Australian entity is his or her economic employer.

Fringe benefits tax is levied on the employer.

The maximum tax rate is 45 percent.

Social security

Foreigners may be exempt from superannuation. The Medicare Levy and Medicare Levy Surcharge may be payable.

Compliance obligations

Tax returns are due by 31 October.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Australian-sourced income and gains from taxable Australian assets (such as real estate). Fringe benefits, which are broadly non-cash employment income, are subject to fringe benefits tax, which is levied on the employer.

Tax rates

Net taxable income is taxed at graduated rates ranging from 15 percent to 45 percent. Non-residents are subject to tax at 29 percent on the first 35,000 Australian dollars (AUD) of income and graduated rates ranging from 30 percent to 45 percent for the remaining income. The maximum tax rate is currently 45 percent on income earned over AUD180,000 in the case of both residents and non-residents.

Liability to social security

Superannuation is a mechanism requiring individuals to save money for retirement. It prescribes that employers make a contribution of 9 percent of earnings (up to a maximum contribution of AUD3,615.30 per quarter) into an Australian superannuation account. An exemption from the superannuation requirement can apply for certain senior executives or where there is a totalization agreement between Australia and the home country. Medicare Levy is payable only by residents and temporary residents from countries that have reciprocal health agreements with Australia. The Medicare Levy rate is 1.5 percent of taxable income. The Medicare Levy Surcharge may also be payable depending on the employees' level of income and whether he/she has an appropriate private health insurance. If applied, the Medicare Levy Surcharge rate is 1 percent of the total of taxable income plus reportable fringe benefits.

Non-residents are not liable to Medicare Levy or Medicare Levy Surcharge.

Employee compliance obligations

Tax returns are due by 31 October following the tax year-end, which is 30 June. Where a tax agent is used, there is an automatic extension. Tax returns are also required to be filed by non-residents who derive any Australian sourced income (other than Australian dividend income, interest income, or royalties, which are subject to final withholding tax).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system. If an individual is taxable in respect of employment income, the payer has a PAYG withholding requirement. Where the payer is a non-resident, this may be varied to zero by application to the Australian Tax Office (with the liability arising on lodgement of the return). In addition, employers may be liable to payroll tax at a state level where the annual payroll exceeds certain threshold levels and an exemption does not apply. Rates, thresholds and exemptions vary between states.

Other

Australia has an extensive tax treaty network.

Currency transfers of AUD10,000 or more must be reported.

Work permit/visa requirements

The appropriate visa must be applied for before the individual enters Australia. The type of visa required will depend on the purpose of the individual's entry into Australia.

Double taxation treaties

In addition to Australia's domestic arrangements that provide relief from international double taxation, Australia has entered into double taxation treaties with more than 40 countries to prevent double taxation and allow cooperation between Australia and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Goods and Services Tax (GST) is applicable at 10 percent in respect of taxable supplies. GST registration may, in some circumstances, be required.

Transfer pricing

Australia has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words when a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Australia has data privacy laws.

Exchange control

Australia does not restrict the flow of Australian or foreign currency into or out of the country. However, certain reporting obligations are imposed to control tax evasion and money laundering. New legislation requires financial institutions and other cash dealers to give notification of cash transactions over AUD10,000, suspicious cash transactions and certain international telegraphic or other electronic funds transfers (there is no minimum amount). All currency transfers (in Australian or foreign currency) made by any person into or out of Australia of AUD10,000 or more in value must be reported.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Australian pension funds.

Austria

Introduction

A person's liability to Austrian tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Austrian work days.

Income Tax

Liability to income tax

A person's liability to Austrian tax is determined by his or her residence status. A person has unlimited liability to taxation (is a 'tax resident') if his or her residence (that is any home readily available for the resident's use) or habitual place of abode (which is automatically assigned once the stay exceeds six months) is in Austria. The general rule is that such a person is assessable on his or her worldwide income. If neither of these conditions is fulfilled, the person has only limited liability to taxation (is a 'non-resident') in Austria, in other words is generally assessable only on income derived directly or indirectly from sources in Austria. Extended business travelers are likely to be considered non-resident of Austria for tax purposes unless they enter Austria with the intention to remain in Austria on a permanent basis.

Definition of source

Employment income is generally treated as Austrian-sourced compensation where the work is performed or used in Austria.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Austria. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Austrian entity is his or her economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income, Austrian-sourced income, and gains from taxable Austrian assets (such as real estate).

2010 Tax rates

Taxable income is subject to progressive tax rates of up to 50 percent, starting at an annual income of 11,000 euros (EUR):

Annual Taxable Income (euros)		Tax Rate on Total Income
From	To	
0	11,000	0%
11,001	25,000	((income – 11,000) * 5,110) / 14,000
25,000	25,000	20,44%
25,001	60,000	((income – 25,000) * 15,125) / 35,000 + 5,110
60,000	60,000	28,73
60,001	no limit	((income – 60,000) * 0,5) + 20,235

Source: KPMG in Austria June 2010

Austrian tax law distinguishes between regular payments, which recur every month, and special (non-recurring) payments. If total special payments are less than one-sixth of all regular payments earned within the same tax year, the special flat tax rate of 6 percent applies. If one sixth of the regular payments is exceeded, the amount in excess is taxed at the progressive income tax rate.

For the assessment of an individual who is subject to limited tax liability in Austria, the amount of EUR9,000 is added automatically by the tax authorities to the taxable income in order to reduce the tax-free amount to EUR2,000.

Social Security

Liability to social security

The Austrian social insurance scheme, which is a statutory system, includes insurance for health, accident, unemployment and pension. In principle, employment in Austria is the criterion for being included. As a result, Austrian nationals and others working within the territory of Austria are treated equally.

The contributions consist of an employee's element and an employer's element: the employee's element amounts to 18.07 percent. This rate applies for regular payments (those that recur every month, such as the monthly base salary). In addition, there is a maximum contribution basis of EUR4,110.03 per month for regular payments. The rates for special payments (those that do not occur on a monthly basis, such as a bonus) amount to 17.07 percent; the maximum contribution basis for special payments is EUR8,220.00 per year.

The employer's rates on regular payments amount to 21.83 percent and, on special payments, 21.33 percent. The same maximum contribution bases apply.

Due to the EU regulation 1408/71 (respectively 883/2004 from 1 May 2010 onwards) and a number of social security totalization agreements, extended business travelers are usually exempt from Austrian social security.

Compliance Obligations

Employee compliance obligations

Tax returns are due by 30 April of the following year or by 30 June if filed electronically. If the taxpayer is represented by a tax advisor, the deadline is automatically extended until 30 April of the following year.

Generally, a tax return must be filed only if the individual's taxable income exceeds EUR12,000. Income tax on employment income is withheld at source (wage tax). Nevertheless, a tax return is required if the individual has additional annual income in excess of EUR730 not previously subject to employer withholding, or more than one form of employment. A threshold of only EUR22 applies for foreign income from investments.

Employer reporting and withholding requirements

If the remuneration is paid by an Austrian employer, the employer is obliged to calculate wage tax on the employee's behalf and remit it by the 15th of the following month to the tax authorities. The employer is responsible for the correct remittance.

Payroll-related employer taxes include municipal tax (3 percent of gross compensation) contribution to Family Equalization Fund (4.5 percent of gross compensation) and surcharge for Chamber of Commerce (approximately 0.4 percent of gross compensation). Depending on the social security status in Austria, exemptions are available.

Other

Work permit/visa requirements

In general, there are no visa requirements for moves within the EU (although there can be visa requirements for arrivals from new member states). A visa must be applied for before individuals from outside the EU enter Austria. The type of visa required will depend on the purpose of the individual's entry into Austria.

Double taxation treaties

In addition to Austria's domestic arrangements that provide relief from international double taxation, Austria has entered into double taxation treaties with about 90 countries to prevent double taxation and allow cooperation between Austria and foreign tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

Value added tax (VAT) is applicable at 20 or 10 percent in respect of taxable supplies. VAT registration may, in some circumstances, be required.

Transfer pricing

Austria has a transfer pricing regime. A transfer pricing implication could arise to the extent that an employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

There are data privacy laws in force in Austria.

Exchange control

Foreign currencies can be exchanged at the daily exchange rates. Travelers' checks can be cashed easily in Austria and credit cards are accepted almost everywhere. There are no restrictions on the import and export of either the euro or other foreign currencies.

Non-deductible costs for assignees

Non-deductible costs for assignees include, for example, payments by an employer that have already been treated tax-free on the Austrian payroll.

Belgium

Introduction

A person's liability to Belgian tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year. In certain cases, separate flat tax income tax rates apply (e.g. for termination payments and lump-sum pensions).

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Belgian work days.

Income Tax

Liability to income tax

A person's liability to Belgian tax is determined by his or her residence status. A person can be a resident or a non-resident.

A resident of Belgium generally refers to an individual who enters Belgium as a single person or with his or her family, with the intention of remaining for more than 18 to 24 months (depending on circumstances and other factors).

Under certain circumstances a person may qualify for expatriate tax concessions. A taxpayer qualifying for the expatriate tax concessions is always deemed to be a non-resident taxpayer. A non-resident of Belgium is generally any individual who is not a resident or who is benefiting from expatriate tax concessions.

The general rule is that a person who is a resident of Belgium is assessable on his/her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in Belgium.

Extended business travelers are likely to be considered non-residents of Belgium for tax purposes unless they enter Belgium with the intention to remain in Belgium for more than 18 to 24 months (depending on circumstances and other factors). Many individuals who move their tax residence to Belgium may however qualify for the expatriate tax concessions.

Employment income is generally treated as Belgian-sourced compensation where the individual performs the services while physically located in Belgium.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Belgium. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Belgian entity is the individual's economic employer or if he or she is working for a direct branch in Belgium of a foreign employer. Similar rules apply if the individual cannot rely on a tax treaty.

Types of taxable income

For extended business travelers, the type of income that is generally taxed is employment income, including non-cash benefits in kind (such as housing, company car, etc).

Depending on the actual facts and circumstances, some payments/allowances may be tax exempt.

Tax rates

Net taxable income is taxed at graduated rates ranging from 25 percent to 50 percent. Tax rates are the same for both resident and non-resident taxpayers. In addition, local tax is due. Local tax is calculated as a percentage of income tax due. The actual percentage depends on the commune where the taxpayer is living and may vary from 0 percent to 10 percent. For non-resident taxpayers, local tax is always 7 percent.

Resident taxpayers are entitled to personal exemptions, including exemptions for dependants. Non-resident taxpayers are not entitled to any personal exemptions unless either 1) the taxpayer's family is living in Belgium, or 2) at least 75 percent of the individual's earned income is subject to income tax in Belgium. Some taxpayers may be able to claim full personal exemptions based on the tax treaty signed between Belgium and their home country.

Social Security

Liability to social security

Extended business travelers employed by an entity located in an EEA Member State or Switzerland can in most cases remain subject to their home country social security scheme. They can obtain an exemption from paying social security in Belgium, regardless of their citizenship. This exemption is based on the EEA/Swiss rules with respect to posting and/or simultaneous employment.

Other extended business travelers may in some cases stay in their home country social security system and also obtain an exemption from paying Belgian social security. This arrangement is based on the provisions of a social security treaty signed between their home country and Belgium.

If no continued home country social security coverage and no subsequent exemption from social security contributions are available, an extended business traveler will be subject to Belgian employee social security.

Compliance Obligations

Employee compliance obligations

Tax returns are due in the year following the tax year-end, which is 31 December. The actual filing due date is determined annually by the tax authorities but is typically the end of June for residents' tax returns and the end of September for non-residents' tax returns.

Resident taxpayers always have to file a tax return. For non-residents who have received Belgian-sourced employment income, there is also a tax return filing obligation in all instances. Belgium does not have a system of final wage withholding taxes.

Employer reporting and withholding requirements

Withholdings from employment income apply if the employee is paid via a Belgian payroll or is working for a direct branch in Belgium of his or her foreign employer. If wage withholding tax is applicable or if the employer deducts the remuneration for Belgian corporate tax purposes, the employer has to establish a wage tax reporting card (fiche 281.10).This fiche 281.10 has to be filed with the tax authorities generally in the month of March of the year following the year of payment.

Other

Work permit/visa requirements

A work permit and a visa must be applied for before the individual enters Belgium. The type of work permit required will depend on the purpose of the individual's entry into Belgium.

EEA and Swiss nationals do not require work permits and/or visas, except for nationals of Bulgaria and Romania, who still require a work permit.

LIMOSA registration

Any employee who is working in Belgium and who is not subject to Belgian social security has to be registered with the LIMOSA system. This registration has to be made by the employer which is sending the employee. In certain cases, an exemption may be available.

Double taxation treaties

In addition to Belgium's domestic arrangements that provide relief from international double taxation, Belgium has entered into double taxation treaties with more than 80 countries to prevent double taxation and allow cooperation between Belgium and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment in Belgium could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Value Added Tax (VAT) is applicable in respect of taxable supplies of goods and services. The standard VAT rate is 21 percent, but certain supplies are subject to reduced 6 percent or 12 percent rates or in some cases a zero rate. VAT registration, in some circumstances, is required. The EU reversed charge rules may be applicable.

Transfer pricing

Belgium has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Belgium has data privacy laws.

Exchange control

Belgium does not restrict the flow of euros or foreign currency into or out of the country although Belgium has money laundering legislation. This legislation provides for a series of preventive measures carrying administrative sanctions and imposing on certain specified institutions and individuals a duty to cooperate to detect suspicious transactions and report them to the Financial Intelligence Processing Unit, an authority created for this purpose. The provisions of the law are applicable to a broad range of mostly financial institutions and professions (including lawyers, tax advisors, certified accountants, company auditors, notaries, bailiffs etc). The law contains, among others, specific provisions concerning client identification and due diligence, transfer of funds, due diligence with regard to unusual transactions, restriction of cash payments for real estate transactions and for transactions by a merchant (namely the prohibition of cash payments over EUR15,000) and disclosure of suspicious transactions.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions to non-qualifying company pension schemes. Most non-Belgian company pension schemes are considered as non-qualifying schemes.

Bosnia and Herzegovina

Introduction

Bosnia and Herzegovina (BiH) consists of two territorial and administrative entities (the Federation of BiH (the FBiH)) and the Republic of Srpska (the RS) and one district, the Brcko District (BD). Due to the insignificant size of the BD, this document will address only the legislation of the BiH's Entities. Each entity has its own income tax legislation. Generally, in both entities a person's personal income tax (PIT) status is determined by his or her residence status for PIT purposes and the source of the income derived by him or her. The PIT base is determined by subtracting allowable deductions from the total income.

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Key messages

Extended business travelers staying less than 183 days in a year in the territory of the FBiH or the RS are taxed on the income earned in the FBiH or the RS, respectively.

Income Tax

Liability to income tax

Unless otherwise specifically stated, the information provided below applies to both the FBiH and the RS.

A person's PIT liability in the FBiH/RS is determined by his or her residence status.

The FBiH PIT Law defines a resident taxpayer as an individual who:

- Has residence in the FBiH;
- Has residence in the FBiH and spends a cumulative period of at least 183 days in the FBiH during any tax period; or
- Has residence in the FBiH and earns income by carrying out a dependent activity outside the FBiH that is paid from the budget of the FBiH and/or BiH.

A non-resident is considered to be an individual spending less than 183 days in the FBiH.

RS

The RS resident taxpayer is an individual who:

- Has RS residency; or
- Stays in the RS for a period of at least 183 days, continually or with interruptions, in a period that begins or ends in the relevant year.

A non-resident taxpayer is an individual who has residence in another country or entity and realizes income in the RS.

The general rule is that residents are taxed on their worldwide income and non-residents on income earned in the territory of the FBiH/RS. Extended business travelers are likely to be considered non-resident of the FBiH/RS for tax purposes unless they stay in the FBiH/RS for more than 183 days in a year.

Tax trigger points

In the FBiH and the RS the PIT trigger point arises simultaneously with the payment of income.

Types of taxable income

The following types of income are subject to PIT: income realized through dependent activity (i.e. employment), independent activity, property and property rights, capital investment, etc. For extended business travelers, the types of income that are generally taxed are employment income and all related benefits in kind.

Tax rates

The PIT rate in the FBiH is 10 percent whereas in the RS it is 8 percent.

Social Security

Liability to social security

Social Security Contributions (SSC) in BiH are regulated at the level of the entities.

Total SSC rates applicable in the FBiH amount to 41.50 percent, applicable to gross salary. Total SSC rates applicable in the RS amount to 30.60 percent, applicable to gross salary.

The existence of a totalization agreement between BiH and the home country of an expatriate may have a bearing on SSC liabilities.

Compliance Obligations

Employee compliance obligations

The individual must submit an annual return no later than the end of April of the year following year of receipt (the FBiH) or no later than 31 March of the year following the year of receipt (RS).

Employer reporting and withholding requirements

Employers performing business activities in both entities are obliged to withhold and pay PIT and SSC for their employees in each entity, respectively.

Other

Work permit/visa requirements

A visa is not required for most foreigners entering BiH (such as EU and US residents), that is, they can enter BiH under the visa-free regime. However, foreign nationals must obtain a work permit in order to work in BiH.

Double taxation treaties

BiH has entered into double taxation treaties (DTTs) with several countries to prevent double taxation. Further, BiH has incorporated into its legal system, through succession, a number of DTTs from the former Socialist Federative Republic of Yugoslavia.

Permanent establishment implications

The concept of a permanent establishment is new in BiH and not yet fully implemented. Generally, however, a permanent establishment could theoretically be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of the employee's authority.

Indirect taxes

Value Added Tax (VAT) is applicable at 17 percent in respect of taxable supplies. The registration threshold is taxable supplies of Bosnian marks (BAM) 50,000 (approximately EUR25,000) or more in the previous year.

Transfer pricing

Neither the FBiH nor the RS has a transfer pricing regime related to PIT.

Local data privacy requirements

BiH has data privacy legislation.

Exchange control

BiH does not restrict the flow of BiH or foreign currency, although certain reporting obligations are imposed to control tax evasion and money laundering. New legislation requires financial institutions and other cash dealers to give notification of cash transactions over BAM30,000 (approximately EUR15,000) or suspicious cash transactions.

Non-deductible costs for assignees

Non-deductible costs of employees in BiH are costs exceeding prescribed tax-exempt limits.

Brazil

Introduction

Any individual that is considered to be a resident for tax purposes in Brazil is subject to Brazilian taxation over his or her worldwide income (wages, interest, dividends, rental income, capital gains, etc.) under certain circumstances and depending on the type of visa he or she holds on arrival in Brazil.

Different circumstances prevail for extended business travelers to Brazil depending on the type of visa they hold. Any individual who is considered to be a resident for tax purposes in Brazil is subject to Brazilian taxation on his or her worldwide income, including wages, interest, dividends, rental income, capital gains, etc.

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Extended business travelers who stay less than 183 days during any 12-month period may be able to avoid taxation in Brazil if they can be considered non-resident and no part of their wages is paid locally.

Income Tax

Liability to income tax

Tax residency

Permanent Visa

A foreign national who enters Brazil with a permanent visa is considered to be a resident for tax purposes from the day of arrival and, therefore, is subject to tax on his or her worldwide income from the first day of physical presence in Brazil. This type of visa is mandatory for employees who will be responsible for the company in Brazil, that is senior employees.

Temporary Type V Visas — With or Without an Employment Relationship with a Brazilian Entity

The holder of a temporary work visa is also considered to be a resident for tax purposes from the day of arrival if he or she is employed by a Brazilian entity. If there is no employment relationship with a Brazilian entity, the holder of a temporary work visa will be considered a resident for tax purposes after the 183rd day of physical presence in Brazil, consecutive or not, within a 12-month period, beginning on the date of arrival or on obtaining a permanent visa, if this date occurs after 183 days of physical presence.

Non-Residency

A foreign national who is a non-resident of Brazil for tax purposes is not subject to tax on his or her remuneration paid outside Brazil. Foreigners arriving in Brazil who are holders of temporary visas without an employment contract with a local company, before completing 183 days (consecutive or not) of stay in Brazil, counted within any period of 12 months, are considered non-resident taxpayers.

The general rule is that a person who is a resident of Brazil is assessable on his or her worldwide income. Non-residents and temporary residents are generally assessable on income derived directly or indirectly from sources in Brazil. Income considered to be offshore is tax-exempt.

Extended business travelers are likely to be considered non-residents of Brazil for tax purposes and may be considered tax-exempt if they enter on a business visa, all their wages are paid offshore, and no part of their wages is paid pursuant to a local contract or a technical assistance agreement. A business visa is not considered a work permit, so these individuals are not permitted to perform remunerated activities. They are able to perform ancillary activities such as conduct meetings, participate in seminars, meet customers and suppliers, prospect the local market, etc. It is important to mention, however, that a business visa subjects the individual to the counting of 183 days as mentioned above.

Definition of source

Employment income is generally treated as Brazilian-sourced compensation where the individual performs services pursuant to a local contract or a technical assistance agreement between a Brazilian company and a foreign company.

A Brazilian tax resident's wages paid through Brazilian payroll is taxed at source, and any portion of these wages paid through a foreign source is taxed in Brazil on a monthly calculation named 'Carnê Leão', which is a Brazilian monthly income tax calculation.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Brazil. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Brazilian entity is his or her economic employer.

Types of taxable income

- Wages paid by a Brazilian entity are subject to withholding at source
- Income from investments held in Brazil is subject to withholding at source
- Income earned abroad (such as. wages, dividends, interest, rental, etc.) through a calculation named 'Carnê Leão'
- Capital gains from assets held in Brazil and abroad
- Gains from the sale of stock on a Brazilian stock exchange or comparable institutions

According to internal legislation, any income received by a Brazilian resident for tax purposes is taxable in Brazil (wages, allowances, interest, dividends, rental income, etc.) under a progressive tax table with tax rates from 0 percent up to 27.5 percent. Tax treaties can avoid double taxation.

Stock option exercises are not expressly regulated, and they are likely to be taxed, but may be taxed at a flat rate depending on the conditions of the plan.

There are no federal income taxes applied to holding assets. There are state and municipal taxes over property and automotive vehicles although capital gains can be subject to a 15 percent tax rate in Brazil.

For extended business travelers, the types of income that are generally taxed are employment income, Brazilian-sourced income, and gains from taxable Brazilian assets (such as real estate). Typical allowances can be applied to employment income.

Tax rates

Net taxable income is taxed at graduated rates ranging from 0 percent to 27.5 percent for resident taxpayers. The maximum tax rate is currently 27.5 percent on income earned over Brazilian reais (BRL) 3743.19. Non-residents are subject to a flat 25 percent tax rate on Brazilian-sourced income paid through Brazilian payroll.

Social security

Liability to social security

Any employee on a Brazilian payroll is subject to social security contributions. The rates vary depending on the individual's salary level.

Currently, social security contributions are withheld at rates of 8, 9, or 11 percent of total monthly gross salary up to a prescribed maximum amount (which is currently BRL375.82).

The employer's contribution is determined at the rate of approximately 26.8 percent up to 29 percent of the total payroll, with no limitation on the amount of earnings subject to contributions. These rates can be higher under very specific circumstances.

FGTS — Brazilian Indemnity Severance Fund

The employer is also subject to an 8.0 percent contribution on the total compensation paid to the employees in favor of the Brazilian Indemnity Severance Fund (FGTS).

In summary:

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
Social Security	26.8 – 28.8	11 with cap	8, 9 or 11
Severance Indemnity	8.0	none	8

Source: KPMG in Brazil June 2010

Brazil has fixed social security agreements with the following countries: Argentina, Greece, Spain, Chile, Italy, Luxembourg, Paraguay, Uruguay, Portugal, and Cape Verde Island.

The main goals of the social security treaties are to make sure the working time in one country is valid towards the minimum working period for retirement purposes in the other country, to allow the cooperation between Brazil and overseas authorities in enforcing their respective laws, and to guarantee the individual's rights. There are several questions on whether such treaties are effective in avoiding social security taxation.

Compliance obligations

Employee compliance obligations

The taxpayer is required to file a tax return by the last business day of April of the year following the end of the taxable year, which is 31 December. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. Non-residents are taxed at a flat rate of 25 percent.

There is no provision for an individual to obtain an extension of time for filing the return. Late filed returns are subject to penalty and interest. Any balance due with the annual tax return must be paid on 30 April. The taxpayer is, however, given the option to pay the balance in six monthly installments, subject to interest charges, beginning on the final filing date.

Resident taxpayers are subject to pay income tax on their worldwide income on a monthly cash basis. Resident taxpayers are subject to a withholding tax system on their Brazilian-sourced income based on a progressive tax table. They are also subject to the Brazilian monthly income tax on the sum of their offshore income (wages, compensation, interests, dividends, rental income, capital gains, etc.) and to file annual Brazilian income tax returns.

Resident taxpayers are required to pay monthly income tax (Carnê-Leão) on their income that was not subject to withholding tax by any other local source. Generally, this means offshore income and rental income received from other individuals. This tax is also calculated based on a progressive tax table. The payment has to be made up to the last business day of the following month.

Non-resident individuals may not be required to file a Brazilian annual tax return if they receive only non-Brazilian-sourced income, or if there is only Brazilian-sourced income paid through a Brazilian payroll that is subject to the flat tax rate of 25 percent and that is withheld at source.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Brazil. The type of visa required will depend on the purpose of the individual's entry into Brazil. A permanent visa is typically required for individuals who intend to live 'permanently' in the country such as, for example someone sent to be the general manager of the local entity. Temporary visas are typically valid for two years, but may be extended. Business visas are valid for 90 days and are renewable once. Special visas exist for individuals who may be present for more than 180 days, but do no intend to reside in Brazil. Tourist visas are not applicable for business travelers, but allow multiple entries into the country and presence for up to 90 days.

Double taxation treaties

In addition to Brazil's domestic arrangements that provide relief from international double taxation, Brazil has entered into double taxation treaties with approximately 29 countries to prevent double taxation and allow cooperation between Brazil and overseas tax authorities in enforcing their respective tax laws.

Reciprocity of treatment is also admissible between Brazil and the US, UK and Germany.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

A permanent establishment is created when the individual remains in the country acting on behalf of his or her company while making decisions and deals on its behalf.

Indirect taxes

There are two value-added taxes in Brazil. One is a state sales tax (Imposto sobre Circulação de Mercadorias e Serviços (ICMS)), and the other is a federal excise tax (Imposto sobre Produtos industrializados (IPI)).

ICMS is due on the physical movement of merchandise. ICMS is also levied on interstate and intermunicipal transport services, communications, and electricity.

IPI excise tax is due, with a few exceptions, on all goods imported or manufactured in Brazil.

The tax is paid upon import or on the manufacture of a product. Credit is given with respect to the IPI tax paid on the raw materials or component parts used in the finished product or consumed in production. The difference in IPI must also be paid if the goods or products are:

- Imported and sold at a higher price by the importer to a domestic purchaser
- Repackaged for sale at a higher price
- Sold at a higher price by the producer or manufacturer through a branch
- Sold through exclusive distributors, a joint venture, or through an affiliated concern

Furthermore, there are other taxes that are due on supply of goods or services: services tax (Imposto Sobre Serviços (ISS)), social contribution on billing (Contribuição para o Financiamento da Seguridade Social (COFINS)), and contribution to the Social Integration Programme (Programa de Integração Social (PIS)).

ISS is a municipal tax on gross billings for services. Services subject to the ISS are defined by federal law. Each municipality (city) must have its own list of taxed services. The COFINS is described as a social contribution and is targeted at the funding of social welfare programs. The COFINS can be charged on a VAT-type base (similar to the ICMS described above) or based on gross receipts from the supply of goods and services. The taxation will depend on the tax system chosen by the taxpayer for paying the corporate income tax.

The PIS was created to fund the unemployment insurance program. The PIS operates on the same basis as the COFINS described above.

The standard rates of VAT are:

ICMS
The standard rate of ICMS is 17 percent. In São Paulo, Minas Gerais, and Paraná, however, the standard rate is 18 percent, and in Rio de Janeiro it is 19 percent. On interstate movements of goods, the rate applied may vary based on the state of destination. Some specific products may have different rates (such as electricity, which is taxed at 25 percent).

IPI
The tax is normally charged on an ad valorem rate according to the classification of the product based upon the international Harmonized Commodity Description and Coding System (HS), administered by the World Customs Organization in Brussels. Rates range from zero to a maximum of 330 percent and average about 10 percent. Luxury goods are at the high end of the tax scale.

ISS
The standard rate of ISS is 5 percent, although there are lower rates for specific services. Rates may, however, vary from one municipality to another.

PIS and COFINS
The standard rates of PIS and COFINS will also vary accordingly to the tax system to which the company is subjected. Rates may vary from 0.65 percent to 1.65 percent for PIS and from 3 percent to 7.6 percent for COFINS.

Transfer pricing
Brazil has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

The arm's-length concept described in the OECD transfer pricing guidelines is not generally followed in Brazil. As a rule, Brazil requires the use of transactional methods that provide for statutory gross margins. Management fees are deductible provided that the services are considered necessary, useful, and common to the business.

Remittance of funds abroad (e.g. management fees and reimbursement of expatriated costs) will be subject to several taxes and contributions that represent an extremely high tax burden that can reach more than the 45 percent of the amount to be remitted.

Local data privacy requirements

Local counsel should be sought to address any data privacy concerns and requirements.

Exchange control

Brazil has strict foreign exchange controls, and remittances abroad may encounter several Central Bank restrictions. Although remittances that fit into preset categories already defined by the Brazilian Central Bank may not find difficulties in processing, remittances that cannot be classified into the preset categories will probably need approval from the Brazilian Central Bank prior to processing.

All remittances of funds from Brazil abroad above BRL10,000 must be made through the official banking system and require certain documentation from the bank.

Most common pre-set categories are:

- Real estate purchase
- Contribution to home country retirement plans by expatriates employed in Brazil
- Transfer of personal assets (when leaving the country)
- Inheritance
- Contributions to associations
- Business trips
- Payments in support of dependants abroad
- Educational pursuits
- Medical treatment
- Rental payments
- Use of data services
- Credit cards

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Brazilian pension funds.

Brunei Darussalam

Introduction

Brunei Darussalam is a Sultanate. The Collector of Income Tax has responsibility for the general administration of the Sultanate's tax legislation.

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Key messages

Brunei Darussalam does not currently levy income tax on individuals.

Income Tax

Liability to income tax

There is currently no personal income tax in Brunei Darussalam. Accordingly, resident and non-resident individuals, including extended business travelers, have no liability to income tax in Brunei Darussalam.

Social security

Employers and employees are required to contribute to the Employees Trust Fund and Supplementary Contribution Pension Scheme.

Liability to social security

With effect from 1 January 1994, all private sector companies are required to pay 5 percent of their employees' salaries to the Employees Trust Fund, a provident fund that is administered by the Brunei Government. Employees are also required to contribute 5 percent of their basic salary into this fund. Payment to the provident fund is mandatory for all citizens and permanent residents of Brunei Darussalam. Foreign workers are not permitted to contribute to the fund.

In addition to the Employees Trust Fund, with effect from 1 January 2010, all private sector companies are required to pay 3.5 percent of their employees' salary to the Supplementary Contribution Pension (SCP) Scheme that is administered by the SCP Board. Employers are also required to contribute 3.5 percent of their basic salary to this scheme. However, the contribution is capped up to a salary of 2,800 Bruneian dollars (BND) per month, although the employee and employer can contribute voluntarily for salaries in excess of the BND2,800 threshold. Payment to the Scheme is mandatory for all citizens and permanent residents of Brunei Darussalam.

Compliance obligations

Employee compliance obligations

Individuals are not required to submit any income tax returns.

Employer reporting and withholding requirements

There are no employee income reporting requirements for employers. There are no payroll taxes in Brunei Darussalam.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters and works in Brunei Darussalam. The type of visa and employment pass required will depend on the purpose of the individual's entry into Brunei Darussalam.

Double tax treaties are not relevant for individuals.

Double Taxation Treaties

Brunei Darussalam has entered into double tax treaties with the UK, Indonesia, Singapore, China and Japan although these are not applicable to individuals as individuals are not liable to any personal income taxes.

Excessive salary payments may be disallowed.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Any individuals who carry out work in Brunei and are non-resident for tax purposes will be liable to 20 percent withholding tax on any payments made to them in carrying out their work in Brunei.

Indirect taxes

There are currently no indirect taxes in Brunei Darussalam.

Transfer pricing

Transactions involving related resident and non-resident entities must be conducted on an arm's-length basis. The Collector of Income Tax has the right to deem any non-resident as trading in Brunei Darussalam and raise an assessment in the name of the Brunei entity as though it were an agent of the non-resident entity.

Local data privacy requirements

Brunei Darussalam has data privacy laws.

Exchange control

There are currently no exchange control regulations in Brunei Darussalam.

Non-deductible costs for assignees

The Collector of Income Tax may also disallow salary payments that he considers excessive, as not being wholly and exclusively incurred in producing income, such as generous salaries and benefits paid to directors who are also shareholders and who, as individuals, are not subject to personal income tax in Brunei Darussalam.

Bulgaria

Introduction

As of 1 January 2008 Bulgaria introduced a major change in the personal income tax legislation with the introduction of a 10 percent flat tax rate, which replaced the progressive tax schedule that had a highest marginal tax rate of 24 percent.

Individuals are liable to Bulgarian personal income tax either on their Bulgarian-sourced income or on their worldwide income depending on their tax residence status. The tax due is determined based on the gross income reduced by certain deductible allowances such as mandatory social security contributions, etc.

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Key messages

The Bulgarian tax legislation specifies that Bulgarian-sourced income consists of income directly paid by Bulgarian entities as well as income resulting from activities performed in Bulgaria.

Income Tax

Liability to income tax

Bulgarian tax residents are considered to be individuals who meet one of the following criteria, irrespective of their citizenship:

- They have a permanent address in Bulgaria;
- They stay in the country more than 183 days in any 12-month period;
- They were sent on an assignment abroad by the Bulgarian State, by its institutions or by Bulgarian entities. Under this option, the family members of these individuals are also considered Bulgarian residents for personal income tax purposes; or
- Their center of vital interests is considered to be in Bulgaria, i.e. the individuals have closer personal and economic relations (such as family, social relations, occupation etc.) with Bulgaria than with another country.

Generally, the above mentioned four criteria are of equal importance in determining the tax-residence status of the individual. However, the tax legislation does provide that the center of vital interests criterion has precedence over the permanent address criterion.

Under Bulgarian tax legislation, non-residents are individuals who meet none of the above mentioned residency criteria. These individuals are subject to tax in Bulgaria only on the Bulgarian-sourced income they have generated.

Tax trigger points

The Bulgarian tax legislation places no minimum threshold with respect to when the individuals begin to have tax obligations in the country. Thus, from a Bulgarian perspective, personal income tax is levied from the first day during which work is performed in Bulgaria. A double tax treaty may, in certain cases, provide for an exemption from taxation until the individual's physical presence in the country exceeds 183 days.

Types of taxable income

Generally, all types of income (monetary and/or non-monetary) are subject to personal income tax in Bulgaria unless they are specifically exempted. In view of this, the following categories of income will be treated as taxable: employment income — including salary payments and all additional bonuses provided by the employer such as car and home leave allowances and equity compensation; dividends; interest income; income from other economic activity; capital gains from the sale of property; rental income and others.

Tax rates

Residents and non-residents for Bulgarian personal income tax purposes are levied with different types of taxes (standard tax and withholding tax). However, their rates, 10 percent, are currently equal. Only dividends (received by both residents and non-residents) are levied with a lower rate of 5 percent. The determination of the tax base may, nonetheless, vary, depending on the residence status.

Social Security

Liability to social security

All those working under contractual relations with a Bulgarian or foreign entity, self-insured people, and those performing any type of activity or service within the territory of Bulgaria are obliged to participate in the mandatory national social security system and to be insured against several types of risks. Health insurance contributions are generally due for all Bulgarian citizens and foreign nationals residing in Bulgaria on a long-term permanent basis regardless of the existence and type of contractual relations. Subject to minimum and maximum income thresholds set by the legislation, the social security and health insurance contributions are due and payable on the employment/management remuneration received. For tax year 2010, the lowest monthly limit is Bulgarian levs (BGN) 420 (EUR215) for self-employed people and the upper limit is BGN2,000 (1,023 euros (EUR)). For employees the limits vary depending on the position they take in the company.

If a foreign individual is assigned in Bulgaria for a certain period of time and is required to remain insured under the social security system in his or her home country (which is an EU Member State), he or she should obtain a certificate E101 under the EU Social Security regulation 1408/71 from the authorities in his or her home country. This will release the individual from payment of social security and health insurance contributions in Bulgaria.

As of 1 May 2010 the new EU Regulation on social security issues 883/04 became effective in Bulgaria. The administrative procedure for obtaining a certificate of coverage may change slightly. Under the above assumptions, however, the treatment for Bulgarian insurance purposes would not change in the specified scenario.

Compliance Obligations

Employee compliance obligations

Generally a person who receives income from sources other than his or her employment with a local entity or has simultaneous employment with more than one employer at year end has a tax return filing obligation. A requirement to file a tax return also arises if the individual is considered a tax resident and owns real estate property abroad/shares in a foreign company or receives dividends from foreign shares (irrespective of whether a tax liability arises on that income in Bulgaria). As of this year (2010) a filing obligation arises also in instances where a tax resident has granted or received loans over specific limits (other than those from credit institutions). The annual personal income tax return is required to be filed either within the preliminary deadline (10 February of the following year) or final deadline (30 April of the following year). If the tax return is filed and the outstanding tax is paid by the preliminary deadline, a 5 percent deduction from the outstanding tax liability is automatically granted. In addition, if the tax return is filed electronically within the final deadline, a 5 percent deduction is allowed. These two deductions, however, may not be accumulated, i.e. the maximum deduction that can be utilized remains 5 percent.

Employer reporting and withholding requirements

The Bulgarian legislation provides that it is the employer's obligation to withhold and remit to the state the social security and health insurance contributions on behalf of both the employer and employee, as well as the advance personal income tax installments, on a monthly basis. Certain reporting documents should be submitted by the entity following the remittance of these charges. If the employer is a non-Bulgarian entity, the social security and health insurance obligations remain the responsibility of the employer, so that if the employer is foreign it must register in Bulgaria for the purpose of becoming an insurer. However, if the employer is a non-Bulgarian entity, the withholding and remittance obligation with respect to the personal income tax falls entirely on the individual taxpayer (unless a secondment scheme exists).

Other

Work permit/visa requirements

In line with Bulgarian legislation, certain categories of foreign nationals must obtain a visa if they wish to enter the territory of Bulgaria.

Citizens of any of the Member States of the European Union, the European Economic Area and the Swiss Confederation, as well as citizens of other countries (such as US, Japan, Australia, etc.) who wish to enter and stay in Bulgaria do not need a visa.

Double taxation treaties

If there is a tax treaty in force between Bulgaria and another country, the provisions of the tax treaty regarding the avoidance of double taxation should be implemented. The treaties concluded by Bulgaria provide mainly for the exemption with progression and tax credit methods for avoiding double taxationdepending on the type of income generated. Bulgaria has currently entered into tax treaties with more than 50 countries.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of activities/services performed and the level of authority the employee has, as well as the provisions of the relevant tax treaty.

Indirect taxes

Supplies of goods and services are generally subject to Value Added Tax (VAT) based on the type of goods or nature of services provided. The following categories of supplies may apply:

- Standard rated supplies — these supplies are subject to VAT at a rate of 20 percent
- Zero rated supplies — these supplies, such as international transport of goods and persons, are subject to a VAT rate of zero percent
- Exempt supplies — supplies of a non-economic character, financial services, insurance and postal services

Transfer pricing

Transfer pricing rules allow the revenue authorities to adjust taxable profits where transactions are not carried out on an arm's-length basis. A transfer pricing issue may arise in the case where an individual is assigned between separate subsidiaries of the same corporate group under a service or secondment agreement. This may affect the invoicing matters between the two entities but is unlikely to have an effect on the individual.

Local data privacy requirements

Bulgaria has put in force legislation concerning data protection and companies in their role as employers are obliged to follows its provisions.

Exchange control

In accordance with Bulgarian legislation, certain types of transactions have to be declared at Bulgarian National Bank not later than 15 days after their execution. These include: (i) transactions between local and foreign individuals involving incoming and outgoing loans exceeding BGN5,000; (ii) granting of financial loans by the opening of a bank account abroad, regardless of the amount of money transferred to the account; (iii) making initial direct investments by local people abroad, regardless of the amount of the investment.

Non-deductible costs for assignees

According to the Bulgarian personal income tax legislation the following are non-deductible:

- The employer voluntary pension, unemployment, life or health insurance contributions up to a certain limit and as long as these are not provided in the form of a social expense.
- The employee voluntary pension, unemployment, life or health insurance contributions above a certain limit and in cases where contributions are made to funds outside the EU and EEA area, etc.

Cambodia

Introduction

Income tax

Residents are taxed on worldwide income whereas non-residents are taxed on Cambodian-sourced income only.

Cambodia levies tax on fringe benefits provided to employees.

An individual's liability to Cambodian tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her.

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Key messages

Employers and employees are jointly responsible for the monthly salary tax and fringe benefits tax liabilities in Cambodia, regardless of whether the salary is paid in Cambodia or abroad.

Liability to salary and fringe benefits tax

An individual's liability to Cambodian tax is determined by his or her residence status. An individual is considered a tax resident if he or she is domiciled in or has a principal place of abode in Cambodia, or is present in the Kingdom of Cambodia for more than 182 days in any period of 12 months ending in the current tax year.

Definition of Source

Cambodian-sourced salary is salary received from the fulfillment of employment activities in Cambodia.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Cambodia.

Types of taxable income

All types of remuneration and benefits received by an employee within the framework of fulfilling employment activities constitute taxable income. This includes salary and wages, redundancy payments, bonuses, overtime, and other compensation. Cambodia also has a fringe benefits tax regime, which levies tax on fringe benefits provided to employees, such as private use of motor vehicles, food and accommodation, utilities and domestic servants and pension fund contributions exceeding 10 percent of the employee's monthly salary.

Non-residents are taxed at a flat rate of 20 percent on their Cambodian-sourced income only.

Compliance obligations

Individuals are not required to submit tax returns.

Other

Foreigners are required to have a work permit.

Cambodia has no tax treaty network.

Tax rates

Residents are taxed at progressive rates ranging from 5 percent up to 20 percent. Residents are entitled to tax relief of 75,000 Cambodian riel (KHR) per month for each child and KHR75,000 for a dependent spouse. Non-residents are taxed at a flat rate of 20 percent. Fringe benefits provided by employers are subject to fringe benefits tax at the rate of 20 percent. The value of fringe benefits is the fair market value of the benefit provided, inclusive of all taxes.

Liability to social security

The National Social Security Fund (NSSF) was set up to manage the occupational risks for all workers/employees under the provisions of the Cambodian labor law. Under the scheme of occupational risk, every month, employers or owners of enterprises/establishments with eight employees or more are required to report the number of workers/employees and pay a contribution of 0.8 percent of the average monthly wage of their workers/employees to the NSSF by the 15th of the following month. Workers/employees of enterprises/establishments registered with the NSSF have the right to claim compensation when they sustain injury at work.

Employee compliance obligations

Resident and non-resident individuals are not required to file annual tax returns. Accordingly, the monthly salary tax deduction is considered to be a final tax for individuals.

Employer reporting and withholding requirements

Employers are responsible for withholding salary tax and fringe benefits tax from their employees and declaring it to the Cambodian Tax Department. Monthly salary tax and fringe benefits tax returns are due by 15th of the following month.

Work permit/visa requirements

A visa must be applied for before an individual enters the Kingdom of Cambodia (although citizens of certain countries do not require a visa). The type of visa required will depend on the purpose of the individual's entry into the Kingdom of Cambodia. Foreigners cannot legally work in the Kingdom of Cambodia unless they possess a work permit and a work identity card issued by the Ministry of Labor and Vocational Training.

Double taxation treaties

Cambodia has not entered into any double taxation treaties.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Residents are not restricted from establishing foreign currency bank accounts.

Indirect taxes

Value Added Tax (VAT) is applicable at a standard rate of 10 percent, or zero percent in respect of taxable supplies. VAT registration is required.

Transfer pricing

Cambodia currently has no transfer pricing regime.

Local data privacy requirements

Cambodia currently has no data privacy laws.

Exchange control

The Foreign Exchange Law of 1997 provides that there should be no restrictions on foreign exchange operations. These operations can, however, only be performed through an authorized financial institution. Although the KHR is the official currency of Cambodia, the US dollar (USD) is in common circulation and the majority of commerce is denominated in USD. There are no restrictions on the establishment of foreign currency bank accounts in Cambodia for residents.

Non-deductible costs for assignees

Employees are not allowed any deductions against their salary income as employees are not required to submit annual tax returns. There are currently no established guidelines with regard to costs which are non-deductible for employers or assignees.

Canada

Introduction

Liability to Canadian tax is determined by residence status for taxation purposes and the source of income derived by an individual. Income tax is levied at progressive rates on a person's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Canadian work days and will have an obligation to file a Canadian income tax return. In addition, employers have a payroll reporting and withholding obligation, even if the employee's income is exempt from tax in the light of the provisions of a treaty.

Income tax

Liability to income tax

Liability to Canadian tax is determined by an individual's residence status. A person can be a resident or a non-resident for Canadian tax purposes.

Individuals resident in Canada are subject to Canadian income tax on their worldwide income and allowed a credit or deduction for foreign taxes paid on income derived from foreign sources. There are no specific Canadian tax rules for determining whether or not an individual is resident in Canada. The law is based on jurisprudence and Canada Revenue Agency comments. Each case is determined on its own merits. By commencing long-term or permanent employment, acquiring a dwelling place, moving one's family into the country, and establishing residential and social ties (such as acquiring bank accounts, club memberships, or a driver's license), an individual may establish residence in Canada at a specified point in time. Residence is also established by virtue of the taxpayer's intent to remain in Canada. Where residence is established by reference to particular events, individuals are taxed as residents for one part of the year and as non-residents for that part of the year that precedes residence. An individual may also be considered a deemed resident taxpayer if he or she is present in Canada for more than 183 days in a calendar year. As a deemed resident, the individual is subject to tax on his or her worldwide income. Tax relief may be available if the individual is also a resident of another country with which Canada has a tax treaty.

Non-resident individuals employed in Canada, carrying on business in Canada, or who have disposed of taxable Canadian property are also subject to regular Canadian income taxes. Income earned in Canada from property and certain other sources, such as dividends, rents, and royalties, is subject to withholding at the source. There is no withholding on Canadian interest earned by non-residents.

Extended business travelers are likely to be considered non-resident of Canada for tax purposes unless they enter Canada with the intention to remain in Canada for more than six months.

Definition of source

Employment income is generally treated as Canadian-sourced compensation where the individual performs the services while physically located in Canada.

Tax trigger points

Technically, there is no threshold or minimum number of days that exempts the employee from the requirements to file and pay tax in Canada. To the extent that the individual qualifies for relief in terms of the income from employment article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Canadian entity is his or her economic employer.

The treaty exemption does not relieve a person from the obligation to file a Canadian income tax return. Similarly, an employer has a payroll reporting and withholding obligation for payments to an individual for services rendered in Canada. The withholding obligation can be eliminated if the employer or employee obtains a withholding waiver from the Canada Revenue Agency (CRA).

Types of taxable income

If an extended business traveler is considered a non-resident, he or she will generally be taxed on income derived from certain specific sources in Canada as follows:

- Income from carrying on a business in Canada (generally, if carried on through a permanent establishment in Canada)
- Income from office or employment in Canada (including director's fees)
- Net income from real estate located in Canada
- Royalty and other income from Canadian resource property
- Dividends from securities issued by a company resident in Canada
- Capital gains from the disposition of taxable Canadian property. Examples of taxable Canadian property include, but are not limited to:
  - Real estate in Canada
  - Capital property used in carrying on a business in Canada
  - An interest in a private corporation resident in Canada
- Canadian resource property

Employment income is taxable when received or when the individual is entitled to receive it, if earlier. Employment income is subject to tax to the extent it was earned during a period of Canadian residence or in the case of income earned while non-resident, to the extent it was earned in respect of duties performed in Canada.

Tax rates

Net taxable income is taxed at the federal level using graduated rates ranging from 15 percent to 29 percent both for residents and non-residents. The maximum federal tax rate is currently 29 percent on income earned over Canadian dollars (CAD) 127,022.

The provinces (except Québec) use the taxable income calculated for federal tax purposes, but can then apply their own tax rates and tax brackets to that income figure. The provinces also set their own non-refundable tax credits and maintain any low-rate tax reductions and other provincial credits currently in place. The Canada Revenue Agency administers both federal and provincial taxes (except Québec): thus, taxpayers calculate their federal and provincial taxes on one return. Provincial tax is computed in essentially the same way as federal tax, but applying the applicable province's tax brackets, rates, and credits to taxable income. The provinces decide upon and use their own graduated rates. Currently, the rates range from five percent to 24 percent. In addition, three of the provinces apply surtaxes.

The maximum combined federal and provincial rates range from a low of 39 percent for Alberta to a high of 48.25 percent for Nova Scotia.

Non-residents are subject to the same provincial tax rates as residents. An additional tax of 48 percent of the federal rate is however applicable (in lieu of provincial tax) on income that may not, because of regulation, be allocated to a province.

Social security

Liability to social security

Canada has an extensive social security system that confers benefits for disability, death, family allowances, medical care, old age, sickness, and unemployment. These programs are funded mainly through wage and salary deductions and employer contributions.

An employee's responsibility is made up of two parts: Canada Pension Plan (CPP) and Employment Insurance (EI). Fifteen percent of the contributions made by an employee to CPP or EI are creditable against that individual's federal income tax liability. The contributions are also deductible for provincial tax purposes.

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
Canada Pension Plan	4.95	4.95	9.90
Employment Insurance	2.42	1.73	4.15
Total Percent	7.37	6.68	14.05

Source: KPMG in Canada June 2010

Canada Pension Plan

CPP is required to be deducted from an individual's remuneration if the individual is employed in Canada, between age 18 and 70, and receiving pensionable earnings. The employer is responsible for withholding and remitting the individual portion and remitting the matching employer portion to the tax authorities. The maximum employee and employer contribution for 2010 is CAD2,163.15 each. Individuals residing in Québec contribute to the Québec Pension Plan (QPP) instead of the CPP program.

If the employee is transferred from a country that has a social security agreement with Canada and/or Québec, the employer may request a certificate of coverage from the other country to exempt the compensation from CPP and/or QPP.

Employment Insurance
EI is required to be deducted from an individual's remuneration if the individual is employed in Canada and is receiving insurable earnings. There is no age limit for deducting EI premiums. Like the CPP contribution, the employer is responsible for withholding and remitting the individual's portion as well as remitting the employer portion (1.4 times the individual contribution) to the tax authorities. The maximum employee contribution for 2010 is CAD747.36 with corresponding employer contribution of CAD1,046.30.

CPP and EI are assessed based on earnings, and the rates are adjusted each year based on actuarial calculations prepared by the federal government.

Canada has entered into formal social security totalization agreements with over 50 countries to prevent double taxation and allow cooperation between Canada and overseas tax authorities in enforcing their respective tax laws. Quebec has entered into separate social security agreements with various countries as well.

Compliance obligations

Employee compliance obligations

Tax returns are due by 30 April following the tax year-end, which is 31 December. There are no provisions for extension of this deadline. Late-filing penalties and interest are generally based upon unpaid taxes, although penalties can also be assessed on certain late-filed information forms.

The Canadian tax system is a self-assessment system. Individuals are required to determine their own liability for income taxes and file the required returns for any taxation year in which taxes are payable. Individuals file their own tax returns; spouses do not file jointly.

A non-resident employee is required to file a Canadian income tax return by 30 April following the tax year to report compensation and compute the tax, or claim an exemption pursuant to an income tax treaty. The income taxes withheld are applied as a credit in calculating the final tax liability for the year. To facilitate filing a return, the employee must apply for a Canadian Social Insurance Number. A return is required even if the income is exempt from taxation pursuant to the provisions of an income tax treaty.

Employer reporting and withholding requirements

Employers are required to report, withhold, and remit withholding tax for each of their employees unless a waiver of withholding tax has been issued by CRA. As a technical matter, even short business trips to Canada are subject to payroll withholding unless a waiver has been obtained. These requirements apply even if the employer is a US company that does not have a permanent establishment (PE) in Canada.

The payroll withholding is not the final tax. The income taxes withheld are applied as a credit in calculating the final tax liability for the year. Any additional taxes owing must be paid by 30 April to avoid late payment penalties.

Other

Work permit/visa requirements

Persons wishing to reside and work in Canada on a permanent basis must satisfy Canadian immigration law requirements for obtaining permanent residence. It is possible, however, to arrange to work temporarily in Canada, either by obtaining an employment authorization or by qualifying for an applicable exemption. We recommend the use of legal counsel for individuals immigrating to Canada.

Generally, employment authorizations, or work permits, are issued by Canadian immigration officers abroad (although renewals can be obtained within Canada). The authorization will be valid only for the particular employer, position, and time period specified. The time period is normally one to three years, but renewals may be available. In most cases, the Canadian immigration officer may not issue an employment authorization unless he or she has first obtained a favorable opinion from the Canada Employment Centre (CEC) in the locale where the employment is to occur. To obtain such an opinion, the prospective Canadian employer must present the job offer to the CEC. If the CEC decides the admission of a non-resident individual will not adversely affect the employment opportunities of Canadian residents, it will issue an employment validation or job clearance.

One notable exception to the requirement of an employment validation from a CEC relates to employment which, in the opinion of an immigration officer, will create significant employment benefits or other opportunities for Canadian citizens or permanent residents. This exception provides the basis for the administratively-created category of intracompany transferees in senior executive or managerial capacities. Such individuals may be granted an employment authorization summarily by an immigration officer abroad without an opinion from the CEC, provided the proper documentation is presented. Citizens of the United States and Mexico wishing to work temporarily in Canada may also gain admittance to Canada under certain provisions of the North American Free Trade Agreement (NAFTA). Working people covered by NAFTA are exempt from the requirement of employment validation through a Canada Employment Centre. In addition, other special exemptions are available between participating nations of the General Agreement of Trades and Services as well as other international agreements. We recommend the use of legal counsel to determine whether any of these special exemptions apply. Please note that the employment authorization provides for employment for the individual applying, but not for the individual’s spouse or dependants. If the individual’s spouse or dependants intend to work or seek employment in Canada, they must obtain their own work permits on their own merits.

Double taxation treaties

In addition to Canada's domestic arrangements that provide relief from international double taxation, Canada has entered into double taxation treaties with approximately 90 countries to prevent double taxation and allow cooperation between Canada and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

A permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

The Canada/US income tax treaty has a new provision effective in 2010 that may result in a deemed permanent establishment, even if a permanent establishment does not otherwise exist. Under this new provision, a deemed permanent establishment may result if a company in one country provides services in the other country for an aggregate of 183 days or more in any 12-month period with respect to the same project or connected projects for customers who are resident of that other country or who maintain a permanent establishment in that other country for which the services are performed.

Indirect taxes

The Goods and Services Tax (GST) applies at a rate of 5 percent to most goods acquired and services rendered in Canada. The provinces of Nova Scotia, New Brunswick, and Newfoundland and Labrador impose a Harmonized Sales Tax (HST) of 13 percent. The HST is a combination of a federal component (5 percent) and a provincial component (8 percent). In all material respects (tax base and mechanics), the HST system is essentially identical to the GST system. British Columbia and Ontario will each harmonize their own retail sales tax with the federal GST to create a harmonized sales tax (HST) of 12 percent (BC) and 13 percent (Ontario) effective 1 July 2010.

Businesses (suppliers) that are registered for GST/HST purposes are required to collect and remit GST/HST on taxable supplies they make and are generally entitled to claim offsetting input tax credits for GST/HST paid on their expenditures.

The word supply includes most forms of goods and services. The scope of the GST/HST is not restricted to the provision of goods and services by way of sale but also includes other types of transactions, such as leases and rentals, barter transactions, and the granting or assignment of a right.

Zero-rated supplies (e.g., basic groceries and exported goods) are also taxable supplies but at a zero percent rate. Suppliers of zero-rated supplies are generally entitled to claim input tax credits for the GST/HST paid on their expenditures.

Taxable supplies do not include exempt supplies such as most healthcare services, financial services, and residential rentals. Suppliers of exempt supplies are not entitled to recover the GST/HST paid on related expenditures.

Generally, the GST and the HST apply to the value of the consideration for taxable supplies of goods or services made in Canada. While the consideration is usually expressed in money, the consideration, or part of the consideration, may be other than money, such as property or a service. In such case, the value of the consideration, or part of the consideration, is the fair market value of the property or service.

The payment of money and the provision of an employee's services to an employer are not supplies. Certain actions carried out for no consideration may, however, in some circumstances, cause GST to be payable: for example, imports of services and intangibles by a Canadian branch from a foreign branch of the same person, or benefits provided to employees.

Registration — Canadian Entities

Generally, if a person makes taxable supplies in Canada and the value of its taxable supplies made inside or outside Canada (including any associated entities) exceeds CAD30,000 in the last four calendar quarters or in a single calendar quarter, the person is required to register, collect, and remit the GST/HST on its taxable supplies. If the value of taxable supplies made in Canada by the person and its associated entities is below this registration threshold, the person is considered a small supplier, but can still choose to register voluntarily for GST/HST purposes. A person who voluntarily registers is subject to the same obligations and rules as other GST/HST registered persons.

Other special rules apply to, among other entities, charities and taxi businesses.

Registration — Non-Canadian Entities

The registration rules that apply to Canadian entities also apply to non-Canadian entities that make taxable supplies in Canada in the course of a business carried on in Canada.

Non-resident registrants without a permanent establishment in Canada will generally be required to provide and maintain security with the Canada Revenue Agency.

Provincial Indirect Taxes

The provinces of British Columbia, Saskatchewan, Manitoba, Ontario, and Prince Edward Island each levy, retail sales taxes on tangible personal property and certain services. The rates vary from 5 percent to 10 percent. The legislation and rules vary among the provinces. British Columbia and Ontario will each harmonize their own retail sales tax with the federal GST to create a harmonized sales tax (HST) of 12 percent (BC) and 13 percent (Ontario) effective 1 July 2010.

The province of Québec levies a 7.5 percent Québec Sales Tax (QST) that applies to the GST-included price of taxable supplies. The QST is generally the same as the GST in application. One of the main differences is the treatment of financial services, which are exempt for GST but zero-rated for QST. Note that in its 2009 budget, Québec proposes to increase the QST to 8.5 percent effective 1 January 2011.

Transfer pricing

Canada requires that transactions with non-residents be undertaken at arm's-length. Canada's transfer pricing regime generally follows the OECD guidelines. Transfer pricing implications could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature of the services performed.

The CRA and Income Tax Act Section 247 provide the transfer pricing authority. CRA Information Circular 87-2R and various transfer pricing memoranda published by the CRA provide guidelines to the regime.

In determining whether a deduction is allowed for transfer pricing purposes, it must first be determined whether an intra-group service has in fact been provided (i.e. whether the activity provides a respective group member with economic or commercial value to enhance its commercial position). It must also be determined whether the intra-group charge for such services is in accordance with the arm's-length principle. The costs must be specific, identifiable, and reasonable.[1] Furthermore, the service should not be duplicative of the service provided by the company or a third party. Each case must be determined according to its own facts and circumstances. In all cases, proper documentation must be maintained to support the transfer pricing methodology used.

Local data privacy requirements

Canada has data privacy laws. The Personal Information Protection Electronic Documents Act establishes 10 privacy principles and applies to all inter-provincial and international transactions. Businesses must generally obtain opt-out consent in order to collect, use, or disclose personal information. The law has received 'adequacy' rating from the European Union. The Privacy Commissioner's Office has broad powers to ensure compliance. Various provinces have implemented separate data privacy rules that are largely similar to the federal law.

Exchange control

No direct controls are in effect on the movement of capital or other payments either into or out of the country. The government is in the process of actively strengthening its anti-money-laundering regime to align with international best practices. There are some limitations on foreign investment in specific sectors, but these have been significantly liberalized since 1985.

Every individual entering or leaving Canada is required to report any importation or exportation of currency or monetary instruments in excess of CAD10,000. The currency or monetary instruments are subject to forfeiture or assessment of a penalty if not properly reported.

Currency refers to the currency of any country. A monetary instrument refers to any financial instrument that is immediately negotiable; is a bearer instrument, such as a bearer bond; or is a security, government, or corporate note or bond.

Importation or exportation refers to carrying currency or monetary instruments on one's person or causing another person to do so, including a courier or mail delivery.

Electronic money transfers between financial institutions are subject to separate reporting procedures typically handled by the financial institutions.

[1]In Canada, compensation related to stock options may not be included in the charge.

Chile

Introduction

A person's liability to Chilean tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year (in the case of residents), which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Chilean-sourced income. They will not be subject to taxation for income generated by assets located or activities developed outside Chile.

Income tax

Liability to income tax

A person's liability to Chilean tax is determined by his or her residence status. A person can be a resident or a non-resident for Chilean tax purposes. Residents of Chile are subject to tax on their worldwide income, whereas non-residents are subject to tax only on their Chilean-sourced income.

During their first three years in Chile, however, foreign national individuals will be taxed in Chile only on their Chilean-sourced income. Thus, during such terms, foreign national individuals will not be subject to taxation for the income generated by assets located or activities developed outside Chile. The tax authorities in qualified cases may extend the three-year concessionary period. Upon expiration of the period, the expatriate will be subject to taxes on all income, regardless of source.

Residence rules

Residence for tax purposes means presence in the country for six continuous months in one tax year or six months, whether continuous or not, in two consecutive tax years.

Definition of Source

Employment compensation is considered as Chilean-sourced income when the individual performs his or her services in Chile, regardless of the location of the payer.

Tax Trigger Points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Chile. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability.

Types of Taxable Income

For extended business travelers, the types of income that are generally taxed are employment income and Chilean-sourced income and gains from taxable Chilean assets (such as real estate).

Tax Rates

During the first six months of stay in Chile, non-Chilean-resident or domiciled individuals are subject to a 20 percent tax on their fees or salaries for scientific, cultural, and/or sport activities. The tax rate for technical services is 15 percent. Finally, the tax rate for any other type of service is 35 percent (20 percent withholding plus 15 percent balance through annual tax return). Non-Chilean-domiciled individuals would be subject to the progressive tax rates from the beginning of their stay in the country.

After the continuous six months period concludes, these individuals will be subject to the same progressive personal tax as Chilean residents. Depending on the nature of the activities undertaken, whether employees or independent contractors/ professionals, individuals are subject either to the second category tax or the global complementary tax, respectively.

Both are personal taxes at progressive rates. These tax rates range from 0 percent to 40 percent. In the case of employees, the second category tax must be withheld and paid by the employer on a monthly basis. The tax base is the amount of the salary after deducting social security payments.

If the employee earns other income, he or she would be compelled to submit a tax declaration in April of the following year where he or she has to report the aggregated income.

Social security

Liability to social security

Employees must finance their retirement pensions through contributions of 10 percent of their monthly salaries up to UF64.7. (Unidades de Fomento or UF is an indexed monetary unit that changes on a daily basis. Value as of 31 May 2010 was 21,112.41 Chilean pesos (CLP)). Pension contribution is not subject to tax (in other words, it is deducted from gross salary before taxes).

The contributions are made to the pension funds managed by privately owned entities called pension fund administrators (PFA), which are regulated by a government agency called the Superintendence of Pensions.

Employees are allowed to make voluntary pension savings deposits in different institutions and with some tax benefits. Employees may finance their voluntary savings and deduct up to UF50 every month for tax purposes. Employees and employers may agree on special deposits into pension funds in different institutions. These special deposits are tax-deferred up to the point of distribution.

Death and disability pension provision is financed by the employer (in companies with more than 100 employees) and accumulated for this purpose in the pension fund and through an insurance plan. The premium for this purpose is 1.87 percent, calculated over the same capped monthly salary of UF64.7.

Finally, the employee has to pay a commission to the PFA that fluctuates, at this time, between 1.36 percent and 2.36 percent. These percentages are calculated over wages and salaries with a ceiling of UF64.7.

Employees can choose between a public and a private health system. The public health system is financed by contributions paid by affiliates equal to 7 percent of their salaries, with the same ceiling of UF64.7 mentioned above. Under the private health regime, employees can subscribe to a health insurance contract with private entities. The minimum payment is equal to the payment for the public health system. In both cases, payments are withheld by the employer and made to the corresponding health institution. These payments are tax-deductible for employees.

Work accidents and occupational disease benefits are financed by the employer through a basic payment of 0.90 percent of the monthly salary with a ceiling of UF64.7. The employer may be required to make an additional payment of up to 3.4 percent of the monthly salary with the same ceiling of UF64.7, depending on the risks involved in the job and the job safety conditions.

To finance unemployment insurance, the employer must contribute 2.4 percent of the monthly salary of the employee, and the employee must contribute 0.6 percent of his or her own monthly salary. The maximum monthly salary for these elements is UF97.1.

Foreigners working in Chile may request to be exempt from social security payments (pension and health contributions) provided they are affiliated with a social security system abroad that provides benefits at least similar to those provided in Chile (old age, disability, illness, and death). This exemption does not include the work accident and unemployment insurance contributions.

In addition, Chile has entered into formal social security totalization agreements with 23 countries as well as with Québec.

Compliance obligations

Employee compliance obligations

Employees of a foreign entity should personally declare and pay their second category taxes on a monthly basis. The taxpayer pays the global complementary tax annually. Tax returns are due by 30 April of each year. Extensions of the filing date are not allowed.

Employer reporting and withholding requirements

Second category tax is monthly and withheld by the employer.

Fees paid from Chile to a non-Chilean resident for services provided abroad and the Chilean-sourced income obtained by a foreign resident are subject to a withholding tax. In general terms, the range of the tax rates varies from 15 percent to 35 percent.

In the case of the second category tax levied on the salary of Chilean resident employees, progressive rates that range from 0 percent to 40 percent are applicable over the gross monthly salary less social security contributions.

Other

Work permit/visa requirements

A visa can be applied for before or after the individual enters Chile. The type of visa required will depend on the purpose of the individual's entry into Chile. A tourist visa may be appropriate if the business visitor's activities are limited to:

- Attending business meetings
- Attending seminars
- Making a sales call provided that the employee represents an entity from outside Chile

Any activities other than these may require a different type of visa. Tourist visas are valid for a maximum of 90 days. An extension may be granted, but an individual cannot stay in Chile for more than 180 days in a calendar year with a tourist visa.

Double taxation treaties

In addition to Chile's domestic arrangements that provide relief from international double taxation, Chile has entered into double taxation treaties with 21 countries to prevent double taxation and allow cooperation between Chile and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

The standard rate of VAT is 19 percent.

VAT is payable on (i) the habitual sale of tangible goods and real estate constructed by construction companies; (ii) the supply of certain services; and (iii) other transactions specially contemplated by law, such as imports and the lease of goods.

Sales are taxable by VAT in Chile when the goods sold are located in Chilean territory, regardless of the place where the respective agreement was made.

Services are taxable when they are provided or used in Chile, regardless of the place where the fee is paid. A service is considered to be provided in Chile when the activity generated by the service takes place in Chile.

Registration is compulsory for any Chilean entity or person performing supplies of goods or services that are subject to VAT in Chile. To register for VAT, the taxpayer is required to submit a registration form and supporting company information and documentation to the tax authorities before commencing any taxable activity.

Foreign entities are able to register for VAT only if they have at least one permanent establishment in Chile and they perform taxable transactions in Chile. There is not a different procedure for the registration of foreign business.

Transfer pricing

Chile has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Chile's transfer pricing regime is outlined under Article 38 of the income tax law. Management fees are deductible under certain circumstances and may be subject to withholding.

Local data privacy requirements

Chile has data privacy laws that were enacted in 1999 and amended in 2002. These 'Laws for the Protection of Private Life' establish the rules and rights related to private data. A centralized data protection enforcement organization is not provided, thus, enforcement occurs through the court system.

Exchange control

Generally, Chile does not restrict the flow of Chilean or foreign currency into or out of the country. Certain reporting obligations are, however, imposed with respect to transactions that exceed 10,000 US dollars (USD).

Non-deductible costs for assignees

In general, no other deductions, in addition to social security contributions, are permitted from gross taxable income (i.e. medical expenses, other taxes, interest paid on mortgages, casualty, and theft losses are all non-tax-deductible). A credit is available for interest paid on mortgages, but to a very limited amount.

An exception exists for professionals working as independent contractors. They may deduct their actual business-related expenses with adequate documentation. Alternatively, they may discount a standard deduction equal to 30 percent of gross revenue (with a cap of approximately USD12,538) without documentation.

China

Introduction

Income tax

Domiciled individuals are taxed on worldwide income whereas non-domiciled individuals are generally taxed on Chinese sourced income only.

In China, the scope of taxation for individuals is generally determined by the source of income, a person's residency status and the length of his or her residence in China.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Chinese work days.

Liability to income tax

A person's liability to Chinese tax is determined by his or her domicile status. For Chinese tax purposes, a person can be a domiciled individual, a non-resident non-domiciled individual, or a resident non-domiciled individual. A domiciled individual is defined as an individual who by reason of his or her permanent registered address or family and/or economic interests, habitually resides in China. An individual with a Chinese passport or a 'hukou' (household registration) is likely to be deemed as domiciled in China. A non-domiciled individual is taxed in accordance with his or her length of residence in China. Such a person would be deemed to be a resident of China for that year if he or she has not been physically away from China for more than 30 continuous days or more than 90 cumulative days in a calendar year. A non-domiciled individual, who has been a resident of China for five years or less, is taxed on income sourced in China only. A non-domiciled individual who has been a resident of China for five full consecutive years is taxed on his or her worldwide income. A non-resident non-domiciled individual may be subject to tax on income sourced in China if he or she is unable to meet the conditions required for exemption.

Definition of source

Employment income is generally treated as Chinese-sourced compensation where the individual performs the services while physically located in China.

Certain non-resident non-domiciled individuals may be exempt from tax.

Compliance obligations

Tax returns are due by 30 March.

Tax trigger points

Under domestic legislation, a non-resident non-domiciled individual is exempt from the requirements to file and pay tax in China if he or she meets the following conditions:

- He or she is in China for less than 90 days in a calendar year (this time period is frequently extended if there is a double tax treaty between China and the country in which the individual is a tax resident);
- He or she is paid by an employer outside China; or
- His or her costs are not borne by a permanent establishment or place of business of the employer in China. The exemption, will not apply, however, if the person holds a position in the Chinese entity.

Types of taxable income

Unless a person is taxed on his or her worldwide income, the types of income on which assignees are generally taxed are employment income, Chinese-sourced income and gains from taxable Chinese assets (such as real estate).

Tax rates

Net taxable income is taxed at graduated rates ranging from 5 percent to 45 percent. The maximum tax rate is currently 45 percent on monthly taxable income over 100,000 Chinese renminbi (RMB).

Liability to social security

Social security taxes do not apply to non-domiciled individuals, with the exception of residents from Hong Kong, Macau, and Taiwan who work for the same entity in China for a cumulative period of more than three months per calendar year. Under rules that have applied since 1 October 2005, these employees and their employers are requirement to make social security contributions for the employee (although in practice, most locations have not implemented the regulations).

Employee compliance obligations

Domiciled individuals and resident non-domiciled individuals with an annual income exceeding RMB120,000 must file an annual individual income tax return by 31 March. Other circumstances where an individual needs to file returns within seven days of the month following the receipt of income are:

- Individuals receiving wages from two or more employers in China; and
- Individuals receiving income from sources outside China (this applies only to domiciled individuals and resident non-domiciled individuals).

Other

China has an extensive tax treaty network.

China's VAT rate is 17 percent.

China has strict exchange control rules.

Employer reporting and withholding requirements

The payer of any amount that is income to an individual has an obligation to withhold the individual's income tax and remit the amount to the tax authorities. Hence, employers have an obligation to withhold the tax on the income paid to its employees, file individual income tax withholding returns and remit the amount to the tax authorities within seven days of the month following the payment of amount.

Work permit/visa requirements

Visas are required for entry into China with the exception of short-term visits by residents of some countries. The type of visa required will depend on the purpose of the individual's entry into China.

Double Taxation Treaties

In addition to China's domestic arrangements that provide relief from international double taxation, China has entered into double taxation treaties with many countries to prevent double taxation and to allow cooperation between China and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT of 17 percent is charged on the supply of goods and the provision of repairs and processing services in China, as well as on the importation of goods into China. Business tax may apply on the supply of labor services.

Transfer pricing

China has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

China does not currently have an extensive set of data privacy laws.

Exchange control

The RMB is not a freely exchangeable currency. There are strict rules applying to the conversion of RMB to other currencies and vice versa within China.

Non-deductible costs for assignees

Non-deductible costs for assignees may include contributions by an employer to non-Chinese pension funds, benefits-in-kind incurred in China that are not supported by official receipts, and accrued but unpaid costs.

Colombia

Introduction

In Colombia, an individual is generally liable for tax on income and property sourced or situated in Colombia. For resident taxpayers, tax is levied on net income and applied at progressive rates. For non-resident taxpayers, income tax is levied on net income at a flat rate. Net income is calculated by subtracting allowable deductions from total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income earned during their time spent working in Colombia.

Income tax

Liability to income tax

A person's liability to Colombian tax is determined by the source of income and the situation of his or her property. The tax rates are dependent on whether a person is a resident of Colombia or a non-resident.

Resident

Colombian law sets out that a person is resident in Colombia if the individual remains in the country, whether or not the stay is continuous, for a period of more than six months during a fiscal year (i.e. 1 January to 31 December), or for a period of less than six months at the end of the fiscal year.

People are generally considered to be resident if they enter Colombia with the intention of remaining in the country for more than six months (or if they actually spend more than six months in Colombia in a fiscal year).

A resident also includes a Colombian national whose family or business remains in the country even though the Colombian national resides in a foreign country.

A person who is in Colombia on a specific temporary visa and who meets other prescribed conditions is considered to be a temporary resident.

Non-resident

A person who does not meet the criteria of a resident is considered to be non-resident.

A person who spends less than six months in Colombia during a fiscal year is therefore non-resident.

Generally, a person who is resident in Colombia is liable to tax in Colombia on his or her worldwide income.

Non-residents and temporary residents are generally liable to tax in Colombia only on income derived directly or indirectly from a Colombian source.

Extended business travelers are likely to be considered non-residents of Colombia for tax purposes unless they enter Colombia with the intention to remain in the country for more than six months.

Definition of source

Employment income is generally treated as Colombian-sourced compensation where the individual performs the services while physically located in Colombia.

Tax trigger points

If an individual is resident in Colombia, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Colombia.

To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there may be no tax liability.

For 2010, residents are not taxable on the first 26.764.950 Colombian pesos (COP) of taxable income.

Types of taxable income

For extended business travelers, the type of income that is generally taxable is employment income. All remuneration and allowances paid under an employment contract are treated as taxable income to the extent they are received in return for services provided in Colombia. For this reason, all payments received in cash, or in kind, by an employee are taxable, regardless of where the compensation is paid.

	Taxable Income	Issues to Take into Account
Colombian national on assignment outside of the country	Rents and occasional gains from a national source are taxable. In the case of residents, taxable income also includes rents and occasional gains from a foreign source.	Wages paid in Colombia for work performed outside the country are not considered to be income of national source. Therefore, non-residents would not be taxed on this income, nor would this income be subject to withholding tax.

	Taxable Income	Issues to Take into Account
Foreign nationals on assignment in Colombia	Foreign expatriates working in Colombia are only liable for tax on income received from a Colombian source during the first four years of residency in the country. From the fifth year of residency, the expatriate is liable for tax on his or her worldwide income.	Where an individual is paid overseas for services performed in Colombia, the amount of income that is taxable in Colombia is calculated based on the number of days the expatriate provides the service in Colombia. If an activity is carried out in Colombia under a labor contract for a minimum period of six months, the authorities may apply the progressive rates of withholding tax. Otherwise, any income will be subject to withholding tax at 33 percent. Regardless of where payment is made for services provided in Colombia, the income will be taxable.

Source: KPMG in Colombia June 2010

Tax rates

The net income of a person resident in Colombia is liable for tax at progressive rates from 0 percent to 33 percent. Non-residents are liable for income tax at a flat rate of 33 percent. This is currently the maximum tax rate for residents and is applied on income earned over COP100.675.500 for the 2010 tax year.

Social security

Social security liability

Employer and Employee

Any person who is resident and employed in Colombia must make contributions to the social security system. The system consists of a general contribution scheme and a special contribution scheme. Social security contributions are calculated based on an employee's earnings.

A voluntary regime is also available to self-employed and unemployed individuals. Participants in this regime are subject to a special quota.

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
Pension Plan	12.0	4.0	16.0
Medical Plan	8.5	4.0	12.5
Family Welfare Fund	9.0	0.0	9.0
Total Percent	29.5	8.0	37.5

Source: KPMG in Colombia June 2010

The social security system provides benefits to the participant or his or her dependants, for events such as occupational accidents, sickness, retirement, pension, and death.

The employer must make the following social security contributions for 2010.

- Pension Plan: 12 percent x monthly payroll
- Medical Plan: 8.5 percent x monthly payroll
- Family Welfare Fund: 9 percent x monthly payroll

It is important to consider whether the employee is contributing to a pension fund or health plan in his or her own country that covers the contingencies he or she could suffer during his or her stay in Colombia. If that is the case, participation in the scheme in Colombia is voluntary. If the employee has a labor agreement with a Colombian company, however, participation in the health plan is obligatory.

Where an employee earns a salary between four and 15 times the minimum legal monthly salary (SMLM), the employee must contribute an additional 1 percent to the pension fund. Likewise, employees earning 16 SMLMs or more must make additional contributions as follows: 16-17 SMLMs 0.2 percent (17.2 percent), 17-18 SMLMs 0.2 percent (17.4 percent), 18-19 SMLMs 0.2 percent (17.6 percent), 19-20 SMLMs 0.2 percent (17.8 percent), over 20 SMLMs 0.2 percent (18 percent).

Colombia has entered into social security totalization agreements with 20 other Iberoamerican Organization countries in order to prevent double taxation and allow cooperation when enforcing their respective tax laws.

Compliance obligations

Employee compliance obligations

The filing date for tax returns is generally between August and September, following the end of the tax year (31 December). The tax authorities publish a schedule each year setting out the filing dates. The filing date for an individual is based on the last two digits of his or her tax identification number (NIT). Foreign nationals are required to obtain an NIT to be used in all their tax affairs.

In general, individuals who have received income and/or own property after 31 December in any tax year must submit a tax return if the income/value of their property is above a certain amount. Failure to do so will result in a monthly penalty, payable in arrears, equal to 5 percent of the outstanding tax, capped at 100 percent of the amount payable.

The following taxpayers are exempt from the requirement to submit a tax return for 2009:

- Employees whose gross equity does not exceed COP106,934,000 for the year 2009 or the equivalent in US dollars (approximately USD53,500); or
- Employees who are not required to account for sales tax in respect of a non-salaried activity.

- Employees whose earnings are less than COP78,418,000 for the year 2009 or the equivalent in US dollars (approximately USD39,200).
- Independent workers whose earnings were received net of withholding tax, providing the worker's gross equity does not exceed COP106,934,000 for the year 2009 or the equivalent in US dollars (approximately USD53,500) and that his or her earnings do not exceed COP78,418,000 for the year 2009 or the equivalent in US dollars (approximately USD39,200).
- Non-resident foreign nationals whose income is derived from dividends, partnership profits, interest, commissions, fees, royalties, rents, compensation for personal services or technical assistance, benefits or royalties from copyrights or artistic or scientific property that have been subjected to withholding tax at 33 percent.

Regardless of the above exemptions, an income tax return must be filed for 2009 if an individual has exceeded the following:

- Credit card purchases in excess of COP68,754,000 (approximately USD34,400)
- Purchases in excess of COP68,754,000 (approximately USD34,400)
- Accumulated bank savings, deposits, or financial investments in excess of COP110,498,000 (approximately USD55,250)

Any outstanding tax must be paid at the time of filing the return. Failure to pay tax when due will result in a penalty, and interest will accrue daily on any unpaid taxes at a rate of approximately 24.21 percent per annum (until 31 March 2010). On 1 April the government will announce the applicable rate for the next quarter.

Employer requirements: Reporting and withholding

Employers are obliged to withhold tax from expatriates' earnings every month as follows:

- If the expatriate is a non-resident, 33 percent of total monthly compensation should be withheld; and
- If the expatriate is a resident and is carrying out an activity in Colombia under a work contract for more than six months, the expatriate will be liable for tax at the progressive rates from zero percent to 33 percent in accordance with the table determined by law.

Income that is contributed to a voluntary pension fund in Colombia or to a savings account destined to acquire real estate (AFC) is considered to be non-taxable income and is excluded from the withholding tax base, providing the total of these contributions and the obligatory contributions do not exceed 30 percent of income.

Those contributions that are withdrawn before a minimum term of five years will, however, be included as income in the year of withdrawal, with the exception of withdrawals made to acquire real estate.

Any tax withheld will be taken into account in the calculation of the final tax liability.

In addition, a deduction from salary is available for interest paid on loans taken out for the home. This, therefore, reduces the income tax and withholding tax bases. It is also important to take into account that 25 percent of labor payments are exempt from income tax, up to a maximum of COP5,703,000 (approximately USD2,852) for the year 2009 and COP5,893,000 for the year 2010.

Other

Work permit/visa requirements

A visa must be obtained before the individual can enter Colombia. The type of visa required will depend on the purpose of the individual's entry into Colombia.

Double taxation treaties

In addition to Colombia's domestic tax regulation, which provides relief for double taxation by giving a tax credit for taxes paid abroad within the limits stated by the law, Colombia has entered into tax treaties to prevent double taxation with Spain and the countries of the Andean community (Peru, Bolivia, and Ecuador). A treaty to avoid double taxation with Chile, Mexico and Switzerland are about to come into force, and Colombia is negotiating treaties with Canada.

Permanent establishment implications

Although the institution of the permanent establishment (PE) is not provided by internal regulation, it will be applicable by virtue of a double taxation treaty as in the case with Spain, which states several events triggering a PE as the incorporation of a branch. In addition, unless specific relief is provided for an income tax treaty between Colombia and the home country, Colombia will tax domestic income.

Indirect taxes

The standard rate of VAT is 16 percent.

VAT is due on the sale of moveable goods and the provision of services within Colombian territory, except those expressly excluded. The importation of moveable goods is also subject to VAT, except where expressly excluded. VAT is not, however, applicable to the sale of fixed assets.

Generally, services are assumed to be provided where the head office is situated, except in the following circumstances:

- Telecommunication services are assumed to be provided where the beneficiary's head office is located.
- Building services are assumed to be provided where the building is located.
- Services of a cultural and artistic nature, loading, unloading, trans-shipment, and storage services are assumed to be provided in the place where the service is materially carried out.
- Where services are executed abroad but the users or consignees are located in Colombia, the services are assumed to be provided in Colombia. Consequently, the services are subject to VAT (i.e. licenses and authorizations for the use and exploitation of incorporeal or intangible assets; professional consulting, advisory and audit services; rental of corporate movable assets; translation, correction, or text composition services; insurance, reinsurance

and co-insurance services; services carried out in respect of moveable corporate assets; satellite connection or access services; satellite television service received in Colombia).

VAT is also applicable to the circulation, sale, and operation of games of chance (i.e. gambling) with the exception of lottery games.

Some transactions are deemed to constitute a sale, such as gifts of property and private use of business assets.

There are two VAT regimes in Colombia, a common regime and a simplified regime. Individuals and businesses that make VAT taxable transactions must register in the correct regime in accordance with the requirements stated below:

The simplified regime is relevant to individuals who are merchants or service providers as long as they comply with the following requirements for tax year 2010:

- Gross equity for the previous year must be less than COP106.934.000 and gross income must be less than COP95,052,000.
- They must not have more than one establishment, office, bureau, shop, or stand in which the activity is carried out.
- The activities in the establishment, office, bureau, shop, or stand must not include a franchise, concessions, royalties, or any kind of exploitation of intangible assets.
- They must not be users of customs.
- Agreements for the sale of goods or for the provision of services should not exceed COP78,418,000 for the previous year nor COP81.032.000 for the current year.
- Amounts deposited in banks or financial investments during the previous year should not exceed COP106,934,000 and COP110,497,000 for the current year.

The common regime is relevant to companies and individuals who do not fulfill the requirements for the simplified regime.

As an exception, overseas companies providing services that are subject to VAT in Colombia are not required to register for VAT. In these situations, 100 percent of the VAT applicable to the specific activity should be withheld by the Colombian party.

Transfer pricing

Colombia has a transfer pricing regime based upon the OECD transfer pricing guidelines. A transfer pricing issue may arise where an employee is being paid by an entity in one jurisdiction but performing services for the benefit of an entity in another jurisdiction, in other words a cross-border benefit is being provided. The issue would also depend on the nature and complexity of the services being performed.

Decree 4349 of 2004 provides specific guidelines in respect of the transfer pricing rules in Colombia. In some situations it may be possible to negotiate advance pricing agreements with the local tax authority.

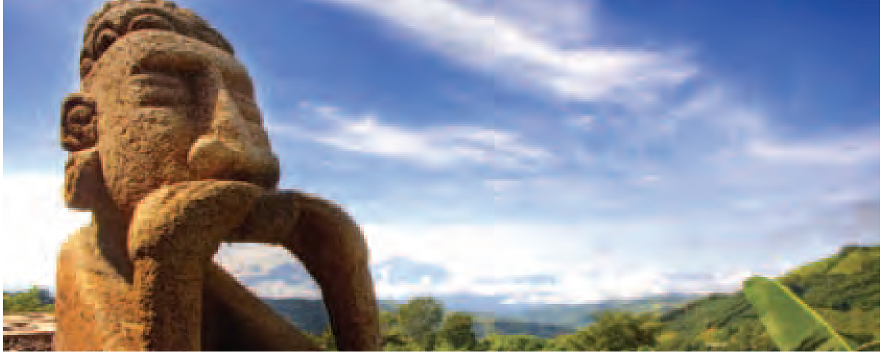
Management fees are deductible in Colombia, and withholding tax is applicable to the extent the services were performed in Colombia.

Exchange control

The flow of currency into and out of Colombia may be subject to the required use of authorized exchange markets.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions made by an employer to non-Colombian pension funds.



Costa Rica

Introduction

A person's liability to Costa Rican tax is determined by the territoriality principle, whereas the method of taxation is based upon residency status. For residents, income tax is levied at progressive rates on an individual's taxable income for the year. This is calculated by subtracting allowable deductions from the total assessable income. If the resident is an employed individual, this person would be subject to taxation through monthly final withholdings levied by the employer, and very limited deductions and credits are allowed. Non-residents are subject to a flat tax rate.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Costa Rican work days.

Income tax

Liability to income tax

The Costa Rican tax system is based on the territoriality principle whereby all income derived within Costa Rican territory and from Costa Rican sources is subject to income tax. Certain exceptions apply. The amount taxable in Costa Rica does not change based on residency status. The method of taxation does however change for expatriates residing in Costa Rica for six months or longer.

Residence for tax purposes is triggered by a continuous physical presence in the country for six months during the tax period. The authorities may however deem residence for individuals in the country for less than six months where an individual has been in Costa Rica on a consistent basis, or has been in a labor relationship with Costa Rican employers.

Typically, an expatriate to Costa Rica will be treated as a non-resident alien in Costa Rica from the day of arrival. As a non-resident, an expatriate's salary will be taxed at a flat rate of 10 percent.

Expatriates residing in Costa Rica from more than six months on a continuous basis will be considered residents for tax purposes. In this case, the expatriate will be subject to tax at progressive rates.

Definition of source

Employment income is generally treated as Costa Rican-sourced compensation where the individual performs the services while physically located in Costa Rica, irrespective of the location from which the salary is paid. Compensation relating to services performed outside Costa Rica would not normally be subject to income tax, but may be subject to social tax. The authorities have been scrutinizing non-Costa Rican income more closely over the years.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Costa Rica. Costa Rica has signed income tax treaties with a few countries, but none of them is currently in force. There is an exchange-of-information treaty in force with the United States.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and other Costa Rican-sourced income.

Tax rates

Residents' employment/taxable income is taxed at graduated rates ranging from 0 percent to 15 percent. For 2010 the maximum tax rate is currently 15 percent on income earned during the month over 929,000 Costa Rican colons (CRC). Non-residents are subject to a flat tax rate of 10 percent on total Costa Rican-sourced income. Self-employed individuals would be subject to a progressive tax rate schedule ranging from zero to 25 percent, and for 2010 the maximum tax rate is 25 percent on net income earned during the year over CRC13,713,000.

Social security

Liability to social security

There is a comprehensive social security system in Costa Rica. Employees must contribute to all segments of social security. The segments include a workers' bank, social security, a national training institute, a social welfare institute, and welfare for the poor. The social security rates are uncapped and are applied to gross compensation. The employee's contribution rate is 9.17 percent and the employer's contribution rate is 26.17 percent.

In addition, the employer must make contributions to a professional risk insurance scheme. The risk insurance rates can vary widely depending upon the nature of the risk.

Costa Rica has entered into formal social security totalization agreements with the 20 other countries of the Iberoamerican Organization to prevent double taxation and allow cooperation between Costa Rica and overseas tax authorities in enforcing their respective tax laws. Ratifications by the members of this group of countries have however not yet reached the minimum required for this multi-lateral agreement to come into force.

Compliance obligations

Employee compliance obligations

Individuals whose entire income is subject to wage withholding are not required to file an income tax return. Otherwise, tax returns are due by 15 December following the tax year-end, which is 30 September.

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system for both residents and non-residents. Domiciled individuals are subject to progressive withholding rates. The rate of withholding applied to non-residents depends on the nature of their activities. Costa Rica has a statutory 13th month benefit that may escape taxation and that may complicate withholding calculations.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Costa Rica. The type of visa required will depend on the purpose of the individual's entry into Costa Rica. For example, an individual may be considered a business visitor provided his or her activities are limited to attending business meetings, making sales calls to potential clients on behalf of a non-Costa Rican entity, and attending seminars. Business visitors must not however receive compensation from within the country.

A business visitor visa is generally valid for 90 days and may be extended for up to an additional 90 days. Certain nationalities may be granted shorter visas.

Double taxation treaties

Costa Rica has signed double taxation treaties with a few countries to prevent double taxation and to allow cooperation between Costa Rica and overseas tax authorities in enforcing their respective tax laws, but none is currently in force.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

The standard VAT rate is 13 percent.

In accordance with the Sales Tax Law (the 'VAT Law'), VAT is levied on the sale of all merchandise within the country and/or the import of merchandise into the country.

According to Article 1 of the Executive Regulation to the Sales Tax Law, the term 'merchandise' must be understood as any material, product, article, manufacture, and, in general, all movable goods produced or acquired for their processing or trade. According to this article, the term 'merchandise' does not include intangible property such as stock or securities. Immovable property is also excluded from the term 'merchandise.'

Only those goods specifically listed in the regulations as exempt are exempted from VAT.

Unlike goods, services are not subject to VAT except when expressly taxed by law. Article 1 of the VAT Law includes a list of services that are subject to the general sales tax.

Taxable services include:

- Services provided by restaurants
- Bars
- Night, social, or recreational centers
- Hotels, motels, pensions, and similar establishments
- Repair shops of any kind of merchandise including motor vehicles
- Parking facilities
- Telephone, cable, or telex services

Article 1 of the VAT Law also includes:

- Photocopying and photographic developing services
- Certain storage services
- Laundry and ironing services
- Public shows except sports, theater, and children's movies
- Advertising services
- Cable and satellite television services
- Services rendered by customs brokers
- Removal services
- Services rendered by real estate brokers
- Pagers and similar services
- Washing, cleaning, and maintenance services for vehicles
- Services rendered by printing houses and lithographers
- Insurance premiums (except for those insurances referred to work risks, crops, houses of social interest, and personal insurances)

All other services are not subject to VAT since the law does not expressly mention them.

The exports of goods and the sale of exempt goods allow the taxpayer a credit for the input VAT paid. The legislation in force establishes restrictions to the input VAT that can be credited.

Costa Rican Entities

Under the 'value-added taxation' system established by the VAT Law, taxpayers are those:

- Individuals or entities engaged in exporting activities. These are considered taxpayers for purposes of the VAT Law. They must register as such in order to obtain a credit on taxes paid on inputs.
- Individuals or entities that produce or sell goods or services subject to VAT. In such cases, the final tax liability is calculated by subtracting total VAT paid on imports or local purchases from total VAT collected from taxable sales during a given period. These individuals or entities are known as 'VAT taxpayers' and have an obligation to register as such with the local tax authorities as per article 5 of the VAT Law. Registration is a simple process and is accomplished by filing a registration form with the local tax authorities. It can usually be accomplished in a couple of days.

Non-Costa Rican Entities

The Costa Rican VAT law does not distinguish between Costa Rican and non-Costa Rican entities. Non-Costa Rican entities that fall under the description indicated above are required to register as VAT taxpayers.

Transfer pricing

Costa Rica does not have a formal transfer pricing regime. The authorities, however, generally assess a fair market value to transactions based upon a general principle of substance over form.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Costa Rica does not provide for the statutory protection of privacy. Some protections are available under Article 24 of the constitution.

Exchange control

Costa Rica does not restrict the flow of Costa Rican or foreign currency into or out of the country.

Non-deductible costs for assignees

Non-deductible costs for assignees may include a portion or all of contributions by an employer to non-Costa Rican pension funds.

Croatia

Introduction

An individual's liability to Croatian tax is determined by his or her tax residence status and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Croatian work days (unless the individual qualifies for relief under the Dependent Personal Services article of an applicable double tax treaty).

Income tax

Liability to income tax

An individual can be a tax resident or a tax non-resident. All resident taxpayers are taxable in Croatia on their worldwide income while non-residents are taxable on income from Croatian sources only. A resident taxpayer is an individual who has in Croatia his or her:

- Residence (if an individual owns/rents accommodation without interruption for at least 183 days over two consecutive calendar years; staying permanently in the accommodation, however, is not necessary); or
- Habitual abode (if the circumstances suggest that an individual permanently resides in that place or region for a period of at least 183 days over two consecutive calendar years).

A resident taxpayer is also an individual who does not have a residence or habitual abode in Croatia, but is employed with the government service and receives a salary based on this appointment.

A non-resident taxpayer is an individual who has neither a residence nor habitual abode in Croatia but earns income from Croatian sources which are subject to Croatian personal income tax.

Extended business travelers are likely to be considered non-residents of Croatia for tax purposes unless they enter Croatia with the intention to remain in Croatia for more than 183 days over a period of two consecutive years.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts an employee from the requirements to file and pay tax in Croatia. To the extent that the individual qualifies for relief in terms of the dependent personal services article of an applicable double tax treaty, there will be no tax liability.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income (encompassing benefits in kind) and other types of income that they might earn in Croatia.

Tax rates

Taxable income both of residents and non-residents is taxed at progressive rates of 15 percent, 25 percent, 35 percent and 45 percent. City surtax may also be applicable and it is calculated on the amount of total tax payable, applying the relevant city surtax rate. The highest city surtax rate is in Zagreb, at 18 percent.

The Croatian government enacted a new tax, called a 'crisis tax', in August 2009, which is payable on all salaries, pensions and other income including dividends received by Croatian tax residents. As of 1 October 2009, the special tax also applies to self-employment income, income from letting property and income from proprietary rights.

This special tax acts as a temporary anti-crisis measure, and should be applicable until the end of 2010 (and until February 2011 for the special tax on self-employment income).

The following rates of special tax are applied on the following bases:

- 2 percent on the total amount of net income from 3,001 Croatian Kuna (HRK) to HRK6,000
- 4 percent on the total amount of net income from HRK6,001 and above

The special tax is payable at the time of payment of salary, pension or other income.

Social security

Liability to social security

If a business traveler comes from a country with which Croatia has concluded a totalization agreement and the relevant exemption forms are obtained to support the payment of obligatory insurance abroad, no Croatian obligatory social security contributions are required. Otherwise, depending on the case, the foreigner would at least need to pay health insurance contributions, which are assessed directly by the tax authorities. The taxable base is the average Croatian national monthly salary (a prescribed, fixed amount for the whole year) multiplied by 35 percent and by a further health insurance contribution rate of 15 percent.

Employee compliance obligations

Individuals receiving income directly from abroad should report such income to the tax authorities within eight days of receipt of the income via submission of a monthly ID form and IPP forms for the reporting of the special crisis tax. An annual income summary form, the IP form (summarising the previous years ID forms), must be submitted by 31 January of the following year. An annual personal income tax return, if one is required to be submitted, is due 28 February of the following year. Residents are obliged to submit an annual tax return if they receive income from abroad, whereas non-residents may opt not to submit an annual tax return. An annual personal income tax return can be submitted only if monthly ID forms and the annual IP form have been submitted.

Extensions are granted only in exceptional circumstances.

Compliance obligations

Employer reporting and withholding requirements

There are no compliance obligations for foreign employers for business travelers coming to Croatia.

If a business traveler travels abroad from Croatia and remains taxable in Croatia, the employer is required to withhold obligatory employee social security contributions and to pay the employer's social security contributions specifically prescribed for business travelers. The employer is also required to ensure appropriate tax withholding.

Other

Work permit/visa requirements

An individual cannot start working in Croatia without having both a work permit and a temporary residence permit. Depending on the type of work that will be performed in Croatia, it is possible that the individual would need to apply for a business permit and a temporary residence permit.

Certain categories of individuals coming to work in Croatia could qualify to work for a limited number of days in Croatia without a work permit (up to 90 days for procurement specialists, key personnel, supervisory board members, etc). Such individuals should in any case obtain confirmation that they may work in Croatia without a work permit. If the 90 day limit is exceeded, generally, both a work permit and a temporary resident permit should be obtained.

Double taxation treaties

Croatia has currently entered into double taxation treaties with more than 45 countries.

Permanent establishment implications

A permanent establishment could be created as a result of extended business travel if the travel lasts for more than three months in any 12-month period, unless the traveler is subject to Croatian PIT.

Indirect taxes

The standard VAT rate is 23 percent and applies to most products and services.

The VAT rate was increased from 22 percent as of 1 August 2009.

A reduced VAT rate of 10 percent applies to:

- Tourist accommodation services and related agency fees
- Newspapers and magazines issued on a daily and periodical basis, with the exception of newspapers and magazines that consist mainly or entirely of advertisements or whose main purpose is advertising

A VAT rate of zero percent applies to bread, milk, educational literature (specified), certain (specified) medical supplies, scientific magazines and film projection services, as well as to exports.

Transfer pricing

Croatia has a transfer pricing regime that applies to any transaction between a Croatian company and a foreign-related company, inclusive of any charges made to the Croatian company in respect of business travelers.

Local data privacy requirements

Croatia has data privacy laws.

Exchange control

There are no limitations for foreign and domestic currency brought into Croatia (by both residents and non-residents). Amounts in excess of EUR10,000, however, need to be reported to the Croatian Customs Authorities. The Croatian Customs Authorities must report amounts in excess of EUR10,000 to the Office for the Prevention of Money Laundering.

Non-deductible costs for assignees

Non-residents can deduct only from gross income the basic personal allowance (currently HRK1,800 per month) and any obligatory health insurance contributions paid by the individual. Any other costs or expenses are non-deductible.

Residents can deduct from gross income the basic personal allowance (currently HRK1,800 per month), as well as additional personal allowances for dependent family members.

Additional deductions are available for all taxpayers for the following:

- Donations up to 2 percent of their previous year's income as evidenced in the previous year's annual personal income tax return.
- Annual deduction in respect of the costs incurred for qualifying health services, costs incurred in the purchase or construction of the owner's main residence, interest income paid on the basis of qualifying loans for the purchase or construction of the owner's main residence, the full amount of rental costs incurred in respect of the main residence, and insurance premiums paid in respect of life insurance, voluntary and additional health insurance, and voluntary pension insurance, all collectively limited to HRK12,000.

If both spouses pay personal income tax, it is possible to share additional allowances for children and other dependants of the immediate family.

Croatian domestic tax law indicates that foreign earned income, which is taxed abroad, is also taxable in Croatia, but a tax credit for taxes paid abroad may be applied to reduce tax otherwise payable in Croatia; the amount of tax credit may not however exceed the amount of Croatian tax payable on that foreign income.

Czech Republic

Introduction

Personal income tax is imposed on the income of individuals. Those who have a permanent residence in the territory of the Czech Republic, or who usually reside in the Czech Republic, are liable to pay tax on their worldwide income unless a double taxation treaty stipulates otherwise. The aggregate income is taxed at a flat rate of 15 percent. Employment income is taxed based on the 'super gross' salary, discussed below.

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Extended business travelers are likely to be taxed on employment income relating to their Czech work days. Non-residents are liable to pay tax on income generated from sources in the Czech Republic.

Income tax

Liability to income tax

A person's liability to Czech income tax is determined by his or her tax residence status. A person can be a resident, non-resident, or split resident for part of the year for Czech tax purposes.

An individual will be considered Czech resident for tax purposes if:

- His or her permanent residence (permanent abode) is in the Czech Republic
- He or she usually resides in the Czech Republic

Individuals who usually reside in the Czech Republic are understood to be persons who stay in the Czech Republic for at least 183 days in a given calendar year, either continuously or intermittently.

The general rule is that a person who is a tax resident of the Czech Republic is liable to declare and pay tax in the Czech Republic on his or her worldwide income, that is, employment income, income from self-employment, rental income, investment income and capital gains and other taxable income from whatever source.

Individuals who are Czech non-resident for tax purposes are subject to tax only on income from Czech sources.

Tax trigger points

The taxpayer has to file an annual income tax return for all resident years. The taxpayer must also file an annual income tax return for the year in which the assignee leaves the Czech Republic, provided that in the year concerned he or she performed activities in the Czech Republic and is not protected by a double tax treaty. The tax return is to be filed within the statutory deadline(s) for filing.

In the years following the year of expatriation, the assignee does not generally have any filing requirements provided that the assignee is treated as tax non-resident and has no Czech source income.

If, however, the assignee receives Czech-sourced income related to his or her prior work in the Czech Republic, the assignee may be liable to declare and pay tax in the Czech Republic on a proportionate part of the income.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Czech-sourced income and gains from taxable Czech assets (such as real estate).

Tax rates

The aggregate income is taxed at a flat rate of 15 percent. In the case of employment income, the rate is applied to a 'super gross' salary. A 'super gross' salary is calculated as gross salary increased by 34 percent of the employer part of the Czech obligatory social security and health insurance contributions (even in the case when the individual remains to be insured abroad).

Treaty countries

Extended business travelers employed by an employer located in an EEA Member State or Switzerland can, in most cases, remain subject to their home country social security scheme. This exemption is based on the EEA/Swiss rules with respect to posting and/or simultaneous employment.

Other extended business travelers may in some cases stay in their home country's social security system and also obtain an exemption from paying Czech social security based on the provisions of a social security totalization treaty signed between their home country and the Czech Republic.

If no continued home country social security coverage and no subsequent exemption from social security contributions are available, an extended business traveler will be subject to Czech social security.

Non-treaty countries

Employees who work in the Czech Republic for employers with registered offices outside the Czech Republic are exempt from the social security scheme, provided that the employer's registered office is in a country that has not concluded a totalization agreement on social security with the Czech Republic and provided that they are not considered economic employees of a Czech entity.

On the other hand, if the individuals are considered economic employees of a Czech entity, they are exempt from Czech social security for the first 270 days of work in the Czech Republic provided that they are subject to an obligatory pension insurance scheme in the country of their employer. Otherwise, they are subject to Czech social insurance from the first day of their work in the Czech Republic.

Employer's Social Security Rate

The employer's social security rate is 34 percent, consisting of 25 percent for the social insurance scheme and 9 percent for the health insurance scheme.

Employee's Social Security Rate

The employee's social security rate is 11 percent, consisting of 6.5 percent for the social insurance scheme and 4.5 percent for the health insurance scheme.

Compliance obligations

Employee compliance obligations

Tax returns have to be submitted by 31 March of the following year, or 30 June if the return is prepared and submitted by a certified tax adviser. In the latter case, a power of attorney in respect of the tax adviser must be lodged with the tax authority by 31 March in order to obtain the automatic extension of the deadline to 30 June.

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go system. The income of an individual paid by a Czech entity based on a local contract with a Czech entity or working in the Czech Republic under the economic employer structure is subject to monthly wage tax withholdings. The withholdings are made by the employer or economic employer through payroll deductions.

In other cases there are no withholding requirements and the tax is reflected fully through the personal income tax return.

Other

Work permit/visa requirements

Visa requirements for short visits have been gradually removed. Most foreign nationals are no longer required to have a visa for the first 90 days, but travelers from certain countries must still apply for a visa to enter the Czech Republic.

EU nationals

EU nationals are no longer required to obtain both a work permit and a residence visa to work in the Czech Republic, regardless of whether they are employed by a local or foreign company.

Non-EU nationals

If non-EU nationals intend to work in the Czech Republic, they generally must obtain a work permit and a residence visa, regardless of whether they are employed by a local or foreign company.

Double taxation treaties

In addition to Czech domestic arrangements that provide relief from international double taxation, the Czech Republic has also entered into double taxation treaties with more than 70 countries to prevent double taxation and allow cooperation between the Czech Republic and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of longer term activities of extended business travelers, but this would be dependent on the type of services performed, the length of his or her stay in the Czech Republic, the structure under which the extended business travelers works in the Czech Republic and the level of authority the employee has.

Indirect taxes

There are two types of indirect taxes: value added tax (VAT), charged on most supplies of goods and services; and excise duties, charged on supplies of specific goods such as fuels, beer, wine, spirits, and tobacco.

Transfer pricing

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

If the companies are regarded as related through equity/capital or as otherwise related persons, there may be a transfer pricing issue as market prices should be used.

Local data privacy requirements

Czech Republic has data privacy laws.

Exchange control

There are no extraordinary exchange controls placed on individuals that restrict the transfer of money into or out of the Czech Republic.

Non-deductible costs for assignees

Generally, some benefits provided by the employer are regarded as non-deductible on the employer side, such as school fees or medical care provided in kind.

Denmark

Introduction

A person's liability to Danish tax is mainly determined by residence status or source of income. The Danish income tax system is a progressive tax system which is based on the person's worldwide income. Taxable income is technically divided into personal income, capital income and share income. There are also some other special categories, which are all taxed at different rates. Deductions are allowed against taxable income according to specific domestic rules.

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Extended business travellers are liable to Danish tax on income derived from employment relating to Danish work days, meaning work days where the taxpayer is physically present and performs work in Denmark for a Danish employer or a foreign employer's permanent establishment in Denmark. There are also special rules which apply to international hiring out of labour and the potential 'economic employer' concept.

Income tax

Liability to income tax

An individual's liability to Danish tax is determined by residence status.

A person can be either a tax liable resident or a tax liable non-resident. A tax liable resident is generally a person who settles and establishes residency/accommodation/home in Denmark for him or herself and/or their family. A stay in Denmark for at least six consecutive months will also trigger tax liable resident status. Short stays abroad for leisure or holidays will not be considered as interruption of the six-month period. A non-resident of Denmark normally has no residency in Denmark or spends less than six consecutive months in Denmark. A resident is liable to tax on his or her worldwide income unless the taxation of the income in question is attributed to another country under a double tax treaty. Non-residents are liable to tax on income derived from certain sources in Denmark.

Extended business travelers will, as a general rule, be considered non-residents for tax purposes provided that they are not residents of Denmark or stay for at least six consecutive months in Denmark. Employment income is generally treated as Danish-sourced employment income if the person actually performs the services in Denmark for a Danish employer or a foreign employer's permanent establishment.

Tax trigger points

As a general rule, there is no threshold/minimum number of days exempting a person from the requirements to file and pay tax in Denmark. Where a person qualifies for relief under the dependent personal services article of a tax treaty, there will be no tax liability provided that the person does not receive income derived from employment for work performed in Denmark or income attributable to a permanent establishment in Denmark. International hiring out of labor triggers taxation from day one.

Types of taxable income

The types of taxable income subject to tax in Denmark for extended business travelers are, in general, salary income and other income derived from employment, including benefits, income from Danish sources, fees, etc.

Tax rates

The tax ceiling for taxable income is 51.5 percent in 2010. Taxable income is taxed at progressive tax rates ranging from approximately 37 percent to 51.5 percent.

Social security

Liability to social security

As a general rule, a person is not liable to Danish social security contributions if the person is not liable to tax in Denmark. As a rule, a person liable to tax in Denmark must pay the Danish labour market contribution (Arbejdsmarkedsbidrag, (AM)) of 8 percent of gross salary, including benefits-in-kind. Contributions to employer-managed pension schemes are also subject to 8 percent AM contribution, which is withheld by the pension provider. There is no maximum contribution. Further, the person must pay mandatory Danish labour market supplementary pension (ATP) of 90 Danish krone (DKK) per month. The employer contribution is DKK180 per month. A person is covered by the social security rules of his or her home country in accordance with a totalization agreement and can be exempted from AM and ATP. The AM contribution is treated as income tax for the purposes of double tax treaty and domestic tax relief. Health care is generally free in Denmark, but limitations apply to medicine and dental treatment.

Compliance obligations

Employee compliance obligations

As a general rule, the income tax year for a person is the calendar year. The tax return for a person who is liable to tax in Denmark is, as a general rule, due by 1 May following the tax year-end. However, in certain cases,such as when the tax return includes foreign income, the tax return is due by 1 July following the tax year-end.

Employer reporting and withholding requirements

Employer reporting and withholding requirements depend on whether the employer is Danish or foreign, including whether a foreign employer has a permanent establishment in Denmark. A Danish employer or a foreign employer with a permanent establishment in Denmark has an obligation to withhold taxes (A-taxes) from the employment income and to withhold the labor market contribution.

Other issues

Work permit/visa requirements

According to the EU rules on free movement of persons and services, EU citizens and EEA/Swiss nationals may stay in Denmark for up to three months, and for up to six months if they are looking for employment. Persons who want to stay in Denmark for a longer period must apply for a registration certificate. Citizens from outside the EU/EEA or Switzerland must apply for a work permit. Citizens of some countries must also apply for a visa before coming to Denmark.

Double taxation treaties

In addition to Danish domestic rules providing relief from international double taxation, Denmark has double tax treaties with more than 80 countries.

Permanent establishment implications

There is a potential risk that extensive business travel would create a permanent establishment. This would depend, however, on a case-by-case analysis, the type of service performed, the level of authority the person has, etc.

Indirect taxes

25 percent value added tax (VAT) is levied on taxable supplies.

VAT registration may, in some circumstances, be required.

Transfer pricing

According to Danish transfer pricing regulations, documentation demonstrating that transactions between related parties follow the arm's length principle must be prepared. A transfer pricing event could arise to the extent that an employee is paid by a party in one jurisdiction but performs services for the benefit of a related party in another jurisdiction without the first party receiving a price equivalent to the value of services performed. This should, however, be assessed case by case based on the nature, scope and complexity of the related transactions carried out.

Local data privacy requirements

Denmark has data privacy laws.

Exchange control

Denmark does not restrict the flow of Danish or foreign currency in or out of the country, but there are certain reporting obligations in order to prevent money laundering and the financing of terrorism. New legislation requires financial institutions and other cash dealers, including attorneys performing certain transactions, to report any suspicion of transactions related to money laundering and financing of terrorism; there is no minimum amount in this regard. It could, for example be complex or unusually large transactions or transaction patterns.

Non-deductible costs for assignees

There are also special rules covering limited or extended deductions for short-term and long-term assignees, also depending on treaty residency status.

Dominican Republic

Introduction

An expatriate's liability to Dominican Republican tax is generally determined by the territoriality principle during the first three years of residency. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Extended business travelers are likely to be taxed on employment income relating to their Dominican Republic working days.

Income tax

Liability for income tax

The Dominican Republic tax system is based on the territoriality principle, whereby all income derived within Dominican sources is subject to income tax. Certain exceptions apply.

A resident of the Dominican Republic generally refers to an individual who remains in the country for more than 182 days in a fiscal year (continuously or not). Foreigners become subject to taxation in the Dominican Republic on financial and investments income from sources outside the Dominican Republic after the third taxable year in which they are deemed to be a resident.

Definition of source

Employment income is generally treated as Dominican Republic-sourced compensation without considering where the individual performs the work. The same occurs to the rendering of services to Dominican enterprises and individuals.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Dominican Republic-sourced income that arises from capital, goods, or rights located, placed, or economically used in the Dominican Republic, as established in the Dominican Tax Code (DTC) article 272 literal (a).

Tax rates

For 2010, net taxable income is taxed at graduated rates ranging from 0 to 25 percent. The maximum tax rate is currently 25 percent on income earned over 727,761 Dominican pesos (DOP) (USD19,940) in the case of both residents and non-residents.

Social security

Liability to social security

The Dominican Republic has a comprehensive social security scheme to which both individuals and employers contribute. Employee and employer contribution rates depend upon the benefit covered and are often capped at a maximum rate of 20 times the minimum wage.

Compliance obligations

Employee compliance obligations

Individuals are taxed on a calendar year basis. Tax returns are due by 31 March following the tax year-end, which is 31 December.

Employer reporting and withholding requirements

The Dominican social security system provides as an obligation to employers the contribution of 70 percent of the cost of the contributive plan to fund the old age, disability, and survival insurance and the family health insurance, while employees shall contribute the remaining 30 percent. The cost of the labor risks insurance shall be covered 100 percent by employers. The contributive plan contains the following:

a) Old Age, Disability and Survival Insurance

Contributions are based on 9.97 percent of the taxable salary as follows:

Distribution	
Employee	2.87 percent
Employer	7.10 percent

Source: KPMG in the Dominican Republic June 2010

b) Family Health Insurance

The family health insurance portion of the contributive plan is based on a simple distribution financial scheme based on a total contribution equal to 10.13 percent of taxable salary as follows: 3.04 percent to be paid by employees and 7.09 percent by employers.

c) Labor Risks Insurance

The contributions to the labor risks insurance will vary considering the category in which the risk is located. The categories are:

Category	Percentage of the Contributable Salary
I	1.10 percent
II	1.15 percent
III	1.20 percent
IV	1.30 percent

Source: KPMG in the Dominican Republic June 2010

It is important to indicate that, according to article 307, those employees who have a sole source of income derived from employment are not required to complete an income tax return. However, if an income tax form is filed for the first time in a given year, then the taxpayer is required to file a tax form every year.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters the Dominican Republic. The type of visa required will depend on the purpose of the individual's entry into the Dominican Republic. United States citizens need a valid passport and a tourist card (valid for a maximum of 60 days) to enter Dominican Republic territory and, in this case, no visa is required.

Double taxation treaties

In addition to the Dominican Republic's domestic arrangements that provide relief from international double taxation, the Dominican Republic has entered into a double taxation treaty with Canada to prevent double taxation and allow cooperation between the two countries.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

The standard VAT rate is 16 percent and is applied to the supply of goods and services within the Dominican Republic and upon the import of goods. Monthly filings are required. Registration is required and is done simultaneously with the registration of the applicable taxpayer. A selective consumption tax (based on value) is applicable to alcoholic beverages, beer and tobacco products. Percentages may vary. Also, custom duties apply to certain imported goods and luxury items not covered by DR-CAFTA (Dominican Republic-Central America Free Trade Agreement with the United States).

Transfer pricing

The Dominican Republic has a transfer pricing regime that was implemented in 2007 based upon arm's-length principles. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

The Dominican Republic does not have comprehensive data privacy laws. Various protections are however afforded the individual pursuant to the 2009 constitution and various other laws, decrees, and resolutions.

Exchange control

The Dominican Republic does not restrict the flow of Dominican Republican or foreign currency into or out of the country.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Dominican Republican pension funds.

Egypt

Introduction

Individuals are residents of Egypt for tax purposes if they meet any of the following conditions:

- Egypt is their place of habitual abode
- Individuals resident in Egypt for a period more than 183 days whether continuously or non-continuously in a 12-month period
- Egyptians who perform their services overseas and receive their income from an Egyptian payroll (public or private)

Based on the above, resident employees will be taxed on their total compensation derived as a result of an employment relationship whether paid from Egypt or from outside Egypt. Additionally, they will be taxed at the normal tax rates as follows:

- All taxpayers are entitled to 5,000 Egyptian pounds (EGP) zero rated tax
- 10 percent is applicable to taxable income between EGP5,001 to 20,000
- 15 percent is applicable to taxable income between EGP20,001 to EGP40,000
- 20 percent is applicable to taxable income in excess of EGP40,000

Non-resident employees will be subject to tax on Egyptian-sourced income at the 10 percent tax rate without any deductions.

- Income is considered Egyptian source in the following cases:
  - Income for services performed within Egypt, including income from salaries and wages
  - Income paid by an Egyptian-resident employer, even if the service is performed outside Egypt
  - Income generated from an Egyptian permanent establishment
  - Proceeds of the sale of movable assets related to an Egyptian permanent establishment
  - Income from other business activities performed inside Egypt

It is the employer's responsibility to withhold and remit the tax to the tax authority on a monthly basis within 15 days following the month of payment.

Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

There is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Egypt. To the extent that the individual qualifies for relief in terms of the dependent personal services article of an applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Egyptian entity is his or her economic employer.

Income tax

Liability to income tax

A person's liability to Egyptian tax is determined by his or her residence status.

A person can be a resident or a non-resident for Egyptian tax purposes. A resident of Egypt is an individual who meets the residency rules set out above. If the residency rules are not met, the employee will not be resident for tax purposes in Egypt and will be taxed at 10 percent on total Egyptian-sourced income without any deductions.

Tax trigger points

There is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Egypt. To the extent that the individual qualifies for relief in terms of the dependent personal services article of an applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Egyptian entity is his or her economic employer.

Types of taxable income

Total compensation including allowances as well as all fringe benefits will be subject to tax in Egypt. Foreign-sourced income that is not related to the employment relationship is not subject to tax in Egypt.

Tax rates

- All taxpayers are entitled to EGP5,000 zero rated tax
- 10 percent is applicable to taxable income between EGP5,001–20,000
- 15 percent is applicable to taxable income between EGP20,001–EGP40,000
- 20 percent is applicable to taxable income in excess of EGP40,000

Social security

Liability to social security

Social Insurance Law 79 of 1975 covers Egyptian employees as well as foreign employees whose countries have treaties with Egypt for reciprocal social insurance treatment.

Employers are required to withhold the employees' social insurance contributions from their salaries, and to remit them together with the employer's contributions to the Social Insurance Organization on a monthly basis. The salaries and related benefits or emoluments are divided, for social insurance purposes, into a basic salary, and variable elements. The maximum insured sum of the basic salary is at present EGP800 per month (approximately USD145), and the maximum insured sum of the variable elements is at present EGP700 per month (approximately USD127). Variable elements include the remainder of the basic salary if it is in excess of EGP800 per month as well as overtime payments, bonuses, representation allowances, and similar emoluments.

Expatriates are not required to pay social insurance. Instead, employers are required to pay 3 percent of the expatriate's salary to cover work injuries. Expatriates are required to pay social insurance only if required under the terms of a totalization agreement concluded between Egypt and the employee's home country.

Compliance obligations

Employee compliance obligations

It is the employer's responsibility to file a quarterly tax return within one month following the end of each quarter. Employees are required to file tax returns only if they have income other than employment income in Egypt or the employer has no legal presence or permanent establishment in Egypt.

Employer reporting and withholding requirements

It is the employer's responsibility to withhold and remit the tax to the tax authority within 15 days following the month of payment. Employees are required to report their income to the tax authority and remit the tax due on their income only if they have income other than employment income in Egypt or the employer has no legal presence or permanent establishment in Egypt.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Egypt. The type of visa required will depend on the purpose of the individual's entry into Egypt. Additionally, employees are required to obtain work permits in order to start working in Egypt as per the requirements of the labor law.

Double taxation treaties

Egypt has entered into double taxation treaties with more than 45 countries.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the level of authority the employee has and other factors.

Indirect taxes

General Sales Tax (GST) is applied at 10 percent. GST registration is required.

Transfer pricing

Egypt has a transfer pricing regime.

- The tax authority can adjust transactions between related parties if they involve conditions which would not be included in transactions between non-related parties.
- This will also apply in the case of transactions whose purpose is to shift the tax burden to tax exempt entities.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Egypt has data privacy laws.

Exchange control

There are no exchange control restrictions in Egypt. All transactions should be made through one of the country's accredited banks.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Egyptian pension funds and hypothetical tax.

Fiji

Introduction

Income tax

Residents are taxed on worldwide income wheras non-residents and temporary residents are generally taxed on Fiji-sourced income only

A person's liability to Fiji tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her.

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Key messages

Business travelers are likely to be taxed on Fiji-sourced employment income subject to the relief provisions of the applicable double tax treaty.

Liability to income tax

A person's liability to Fiji tax is determined by his or her residence status. A person can be a resident or a non-resident for Fiji tax purposes. A resident of Fiji generally refers to an individual who enters Fiji with the intention of remaining for more than six months (or who actually spends more than six months in Fiji during an income year). A non-resident of Fiji is generally someone who spends less than six months in Fiji. The general rule is that a person who is a resident of Fiji is assessable on worldwide income. Non-residents are generally assessable on income derived from sources in Fiji.

Definition of source

Employment income is generally treated as Fiji-sourced compensation where the individual performs the services while physically located in Fiji.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Fiji. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Fiji entity is his or her economic employer.

Types of taxable income

For business travelers, the types of income that are generally taxed are employment income and Fiji-sourced income and gains from taxable Fiji assets (such as real estate).

Social security

Non-residents are not required to contribute to the Fiji National Provident Fund (FNPF). However, expatriate employees on employment contracts who wish to join FNPF must apply to FNPF within three months of the start of the employment in Fiji.

Compliance obligations

Tax returns are due on 31 March. If the tax return is lodged under the Tax Agents Lodgement Program then an extension of time of up to a maximum of eight months is generally granted.

Other

14-day business visas are available.

Fiji has tax treaties with eight countries.

Tax rates

Net taxable income is taxed at graduated rates ranging from 25 percent to 31 percent. Non-residents are subject to tax at graduated rates ranging from 20 percent to 31 percent. The maximum tax rate is currently 31 percent on income earned over 15,600 Fiji dollars (FJD) in the case of residents and FJD20,000 for non-residents.

Liability to social security

Superannuation is a mechanism requiring individuals to save money for retirement. It prescribes that employers make a contribution of 8 percent of earnings into the Fiji National Provident Fund with a similar contribution by the employee. Non-residents are not obliged to contribute to the National Provident Fund; however, if they wish to contribute, then they must apply to the Fiji National Provident Fund to become a member within three months of commencing employment in Fiji.

Employee compliance obligations

Tax returns are due by 31 March following the tax year-end, which is 31 December. Where a tax agent is used, an extension of time is generally granted. Tax returns are required to be filed by non-residents who derive any Fiji-sourced income (other than Fiji dividends, interest income, or royalties, which are subject to final withholding tax).

Employer compliance and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable in respect of employment income, the employer has a PAYE withholding requirement.

Work permit/visa requirements

A visa must be applied for before the individual enters Fiji. The type of visa required will depend on the purpose of the individual's entry into Fiji. A 14-day business visa is generally granted upon entering Fiji to carry out very short-term consultancy type work. A short-term work permit (ranging from three to six months) and long-term work permit (ranging from one to three years) are also available subject to complying with certain requirements.

Double taxation treaties

In addition to Fiji's domestic arrangements that provide relief from international double taxation, Fiji has entered into double taxation treaties with eight countries, including Australia, Japan, Korea, the United Kingdom, and Singapore, to prevent double taxation and allow cooperation between Fiji and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT is applicable at 12.5 percent in respect of taxable supplies.

Transfer pricing

The Fiji tax authorities are developing a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Fiji does not have data privacy laws.

Exchange control

Exchange control approval is required for the repatriation of funds out of Fiji. However, if the funds are deposited in the employee's external bank account, exchange control approval is not required.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-approved pension/superannuation funds.

Finland

Introduction

A person's liability to Finnish tax is determined by his or her residence status for tax purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. Non-residents pay a flat rate of tax at source.

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Key messages

Depending on tax treaty provisions, payroll set-up and the length of stay, extended business travelers may become taxable on employment income relating to their Finnish work days.

Liability to income tax

A person's liability to Finnish tax is determined by his or her residence status. A person can be a resident or a non-resident for Finnish tax purposes. An individual is treated as a resident if he or she has a permanent home or habitual abode in Finland or otherwise has stayed in the country for a continuous period of at least six months. It should be noted that the stay in Finland may be regarded as continuous in spite of a temporary absence from the country.

A non-resident for tax purposes in Finland is generally someone who spends less than six months in Finland and does not have a permanent home in Finland.

The general rule is that a person who is a resident of Finland is assessable on his or her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in Finland. Extended business travelers are likely to be considered non-resident of Finland for tax purposes unless they enter Finland with the intention to remain in Finland for more than six months.

Employment income is generally treated as Finnish-sourced compensation where the individual performs the services for a Finnish employer while physically located in Finland.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Finland. To the extent that the individual qualifies for relief under the dependent personal services article of an applicable double tax treaty, there will be no tax liability. The economic employer approach is not adapted or legislated in Finland but it should be noted that there is a risk that the approach may still be used. The tax authority has not provided any written guidelines in this respect.

Types of taxable income

Normally during short-term assignments (lasting less than six months in total) only employment income for work performed for a Finnish employer mainly or only in Finland (with remuneration paid in cash or in a form of fringe benefits) will be taxed in Finland.

The employment income related to a short-term assignment may be tax-exempt on the basis of the relevant tax treaty.

In some cases the housing and other travel costs to and from Finland can be compensated without tax liability such as, when the assignment lasts for a period of less than two years and the assignee has his or her employment still valid in the home country. In this case, a daily allowance may also be paid tax-exempt.

Tax rates

Finland levies progressive tax rates up to 46.5 - 51 percent (depending on the municipality) for residents. In addition, the local communities of the Evangelical-Lutheran and Orthodox Churches levy church tax. Church tax is imposed at flat rates between 1 and 2 percent.

For non-residents, a flat 35 percent tax rate is used. There is also a flat basic deduction applicable for non-residents if this is mentioned in the tax card.

Social security

Liability to social security

According to the general rule, all social security premiums must be paid when an individual is working in Finland regardless of the length of the working period.

Exemption from social security contributions can be granted for individuals seconded to Finland under the EU/EEA Social Security Regulation or an applicable totalization agreement.

Employees coming from countries other than EU/EEA or countries with which Finland has a totalization agreement are generally fully subject to social security payments in Finland. An exemption from obligatory pension insurance may apply under certain circumstances. Exemption may be granted for up to a maximum of five years.

Compliance obligations

Employee compliance obligations

Tax returns are normally due 11 May or 18 May following the tax year (which is also the calendar year). The date will be printed on the pre-completed tax return form. If a taxpayer has not received a pre-completed tax return form he or she has to file a tax return by 18 May.

Employer reporting and withholding requirements

If salary or fringe benefits are paid by the Finnish entity (company or PE) the local employer has withholding and reporting obligations. Withholding is based on a tax card. Taxation for residents is based on the progressive tax card. There is a tax at source card issued for non-residents. Tax cards can be obtained from the tax office.

A non-Finnish entity (foreign employer) generally only has a reporting obligation to file an annual notification report if the assignee remains in Finland for over six months.

Other

Work permit/visa requirements

Employees outside the EU/EEA generally need a work permit in order to work in Finland. A specific permit is applicable for experts, managers and sportsmen, for example. An entry visa is needed for those who are not EU/EEA nationals or not part of the visa waiver program. The visa needs to be applied for beforehand.

Certain local registrations are also needed after the entry to Finland for those that are nationals of the EU/EEA.

Double taxation treaties

In addition to Finland's domestic arrangements that provide relief from international double taxation, Finland has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow cooperation between Finland and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Value added tax (VAT) is applicable at between 8 and 22 percent in respect of taxable supplies. Small changes in rates are expected in 2010. For example, the general VAT rate of 22 percent will increase to 23 percent, effective from 1 July 2010.

VAT registration may be required in some circumstances.

Transfer pricing

The Finnish transfer pricing regime is broadly based on the OECD guidelines.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. The Finnish transfer pricing regulations require that the entity benefiting from the services performed also bears the costs of the employee performing the services.

Local data privacy requirements

Finland has data privacy laws.

Exchange control

Exchange control has been practically abolished in Finland. Only the most significant foreign transactions of financial institutions are subject to authorization.

Certain reporting requirements apply to payments to or from a foreign country. If such a payment is effected through an authorized bank, the bank will supply the required information to the Bank of Finland. If some other method of payment is used, the resident party making the foreign transaction must provide the Bank of Finland with details of information about the transaction.

Non-deductible costs for assignees

Non-deductible costs for assignees include, for example, clothing, children's school fees, meals and other costs considered as normal living costs. In some cases assignees' living costs that are higher than normal living costs may be deductible.

France

Introduction

Income tax in France is assessed on a family/household basis. Income tax liability is determined by applying progressive tax rates to the net taxable income of the household in conjunction with a quotient based on family size. The determination of net taxable income depends on the residency status of the person and his or her household, and is generally achieved by taking gross taxable income less certain allowable deductions (including mandatory social security contributions).

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Key messages

Extended business travelers may be subject to French tax on their salary earned for French work days.

Income tax

Liability to income tax

Individuals' liability for French income tax liability will depend on their French tax residence status. French tax residents are subject to tax on their worldwide income, whereas French tax non-residents are subject to tax on their French-sourced income only. A person is deemed a resident of France where he or she fulfills any of the following criteria.

- He or she maintains a permanent household in France
- He or she has his or her main place of abode in France
- He or she carries on most of his or her business activities in France
- The center of his or her economic interests is in France

Most extended business travelers will be considered non-residents for French tax purposes and subject to tax on their French-sourced income only. The salary earned in relation to workdays spent physically in France will usually be considered French-sourced and therefore subject to French income tax, unless it is exempt under the provisions of a double tax agreement (income tax treaty) with another country.

Some business travelers may become French tax residents if their family moves to France with them and they do not maintain a home outside France. Such employees will be subject to French tax on their worldwide income. Employees who arrive in France and become French tax residents for the first time (or have been non-resident for at least five years) may have access to tax concessions designed to decrease the tax burden on temporary resident workers.

Certain other conditions must be met for the concessions to apply.

Income tax is generally payable in the year after the income is earned, with payments potentially due in February, May and September.

Tax trigger points

There is no minimum threshold number of days worked in France before taxation may be applied. The provisions of an international tax treaty may provide for an exemption from tax in France on salary income. The French tax authorities do not currently actively enforce an economic employer approach to the reading of treaties. Thus, if there is no recharge of salary costs to the French entity, it may currently be possible to apply the treaty exemption. This position should be closely monitored, as commentary on the subject is expected in the future.

Types of taxable income

As non-residents, extended business travelers will usually be subject to French tax on salary and benefits-in-kind earned in relation to their French workdays, as well as income from any French-sourced investments or capital gains on French assets where the value of assets sold is over a certain threshold for the year.

Tax rates

The net taxable income of non-residents is taxed at a minimum of 20 percent, with progressive tax rates up to 40 percent.

Social security

Liability to social security

The French social security system is a complex architecture of various statutory and non-statutory schemes which may differ for each employer and industry type. The rate of employee contributions can be as much as 23 percent and 45 percent for employers. Some contributions are capped, others are not.

Extended business travelers employed by an entity located in an EEA Member State or Switzerland can in most cases be exempt from French contributions and remain subject to their home country social security scheme. This exemption is based on the EEA/Swiss rules with respect to multi-state employment.

Business travelers arriving from a country outside the EEA or Switzerland that does not have an agreement with France on social security, will generally be subject to French social security contributions.

Compliance obligations

Employee compliance obligations

French tax returns must be filed by the legal deadline of 1 March following the year of income. In practice, however, the French tax authorities extend this deadline to the end of May for residents, and even further for non-residents, depending on their actual country of residence. The final income tax liability is payable by September, although installments may be due prior to this, in February and May.

Employer reporting and withholding requirements

Employers are required to withhold employee and employer social security contributions (where no exemption is applicable) on a monthly basis, and remit them to the relevant authority for each scheme.

Monthly pay-slips should be prepared outlining the gross wages, amount of deductible and non-deductible social security contributions, and the net taxable salary. In addition, a yearly report must be prepared reporting total wages and social security contributions.

Where remuneration is paid to a non-resident taxpayer, the employer is required to withhold non-resident tax. Additional tax may be due via the tax return.

Other

Work permit/visa requirements

A visa must generally be applied for before the individual enters France. The type of visa required will depend on the purpose of the individual's entry into France.

Double taxation treaties

France has entered into a number of double taxation treaties with other countries to prevent double taxation and allow cooperation between France and overseas tax authorities in enforcing their respective tax laws. As a general principle, the provisions of double tax treaties will override domestic rules.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

France has Value Added Tax (TVA).

Transfer pricing

France has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

France has data privacy laws.

Exchange control

France does not restrict the flow of currency into and out of France. There is, however, a requirement for French tax residents to report their foreign bank accounts.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions to non-mandatory social security regimes.

Germany

Introduction

A person's liability to German individual income tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the calendar year. It is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

It is essential that transfer pricing rules are observed, which means that appropriate cost sharing between the home and the host country should be agreed and properly documented.

Extended business travelers are likely to be taxed on employment income relating to their German workdays.

In this respect, withholding obligations may arise for the host company. It should be noted that the tax withholding for non-resident employees follows special rules, which differ from those for resident employees. It is important that the home and host country establish a reporting system which allows them to exchange all the relevant information in a timely manner.

As individuals working in Germany are subject to German social security regulations unless exempted under the applicable EEC Regulation, a totalization agreement or domestic laws, the host company should carefully review whether it has a social security withholding obligation for inbound business travelers or, if an exemption applies, whether a certificate of coverage has been obtained.

Germany applies a strict regime of immigration laws for non-EU citizens.

We strongly recommend that you review the immigration status of your business travelers' in plenty of time before the assignment begins.

Income tax

Liability to income tax

A person's liability to German individual income tax is determined by his or her residence status. A person can be a resident or a non-resident for German tax purposes. A resident of Germany generally refers to an individual who has a domicile in Germany or spends more than six consecutive months in Germany (habitual place of abode). A domicile is a home or dwelling owned by or rented to the taxpayer who has full control over the property. Domicile determined by fact, not by the intention of the taxpayer.

A non-resident of Germany is generally someone who spends less than six months in Germany. The general rule is that a person who is a resident of Germany is assessable on his or her worldwide income. Non-residents are generally assessable on income derived from German sources. Extended business travelers are likely to be considered non-residents of Germany for tax purposes unless they stay in Germany for more than six months in a row (brief interruptions are disregarded).

Definition of source

Employment income is generally treated as German-sourced compensation where the individual performs the services while physically present in Germany. Double tax treaty provisions may prevent Germany from taxing such income if certain conditions are met.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Germany. To the extent that the individual qualifies for relief in terms of the dependent personal services article of an applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the German entity is his or her economic employer or if the salary is borne by a permanent establishment for treaty purposes which the foreign employer has in Germany.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and German-sourced income and gains from taxable German assets (such as real estate located in Germany); fringe benefits (broadly non-cash employment income also fall into this category).

Tax rates

Net taxable income is taxed at graduated income tax rates ranging from 14 percent to 45 percent. In addition to income tax, a solidarity surcharge amounting to 5.5 percent of the income tax is charged. If the taxpayer is a member of a church that is recognized for tax purposes, church tax at 8 or 9 percent of the income tax is levied. Non-resident employees are also subject to income tax at graduated rates as well as solidarity surcharge. Non-residents are not subject to church tax.

Social security

Liability to social security

Employees working in Germany are generally subject to German social security payments. Extended business travelers from other EU or EEC member states or Switzerland will typically be exempted from contributing to the German social security system under the applicable EEC regulation. Extended business travelers from other countries may be exempted under a totalization agreement or under Germany's domestic laws.

Contributions to pension insurance and unemployment insurance as well as health insurance and long-term nursing care insurance, are capped both for the employer and the employee.

Compliance obligations

Employee compliance obligations

Tax returns are due by 31 May following the tax year-end, which is 31 December. Where a tax agent is used, there is an automatic extension until 31 December. Non-residents who derive German-sourced employment income and no other income from German sources are required to file an income tax return only if the employment income was not subject to German wage tax withholding. If the host company is obliged to withhold German wage tax on a non-resident's wages, the non-resident taxpayer generally cannot file a German income tax return. As a consequence, the German wage tax withholding needs to be accurate and precise.

Employer reporting and withholding requirements

If an individual is taxable in respect of employment income, the German employer has a withholding requirement. A company that economically bears an individual's wages is also deemed to be a German employer even if no employment contract exists between the German company and the individual (this is the economic employer concept).

A permanent establishment of a foreign employer in Germany is also obliged to withhold German wage tax. It is important to note that a permanent establishment as defined by German domestic law is sufficient to trigger a withholding obligation. It does not necessarily have to qualify as a permanent establishment under an applicable treaty.

Other

Work permit/visa requirements

Where a visa is required, it must be applied for before the individual enters Germany. The type of visa required will depend on the individual's country of origin and the purpose of the individual's entry into Germany. Simplified rules exist for business travelers from EU Member States and certain other countries in the Western world.

There is a certain risk that an agreement between the home and host company might be classified as a staff loan agreement if certain conditions are met, which can potentially lead to a violation of German labor and civil laws.

Double taxation treaties

In addition to Germany's domestic arrangements that provide relief from international double taxation, Germany has entered into double tax treaties with approximately 80 countries to prevent double taxation and allow cooperation between Germany and other tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

The definition of a permanent establishment under Germany's domestic laws differs from the definition of a permanent establishment for treaty purposes. A permanent establishment as defined by German domestic law is sufficient to trigger a wage tax withholding obligation.

Indirect taxes

Value Added Tax (VAT) is applicable at 19 percent in respect of taxable supplies.

Transfer pricing

Germany has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Germany has data privacy laws.

Exchange control

Germany does not restrict the flow of German or foreign currency into or out of the country. Certain reporting obligations are however imposed to control tax evasion and money laundering.

Non-deductible costs for assignees

The deduction of assignee-related costs may be limited where the salary level of an inbound assignee significantly exceeds the cost of a local individual in the same role. Hence proper documentation should be kept available.

Greece

Introduction

Persons residing in Greece are liable to income tax on their worldwide income, whether remitted to Greece or not. Where tax has already been paid outside Greece on non Greek-sourced income, the tax may be deducted up to the amount of tax payable in Greece on the same income.

Non-residents are taxed only on Greek-sourced income.

The determination of residency status in Greece is based on numerous factors related to the individual and his or her connections with Greece. Greek tax law does not provide a definition for 'resident'; however, pursuant to guidance issued by the Greek Ministry of Finance, residence (for Greek tax purposes) is defined by the Greek Civil Code. The Greek Civil Code states that the residence of an individual is determined as the place of his or her principal and permanent establishment and that a person cannot simultaneously have more than one residence (except for commercial/business purposes). Where a person lives in more than one place, residence is considered to be his or her principal residence. The material factors to be considered are the maintenance of a home, a place of work, professional activities, etc. Also, one must consider the person's intentions, i.e. as what place the individual intends to treat as his or her permanent place of establishment. However, such intention is determined on the basis of his actions (i.e. on the above material factors).

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Income tax

Liability to income tax

Greek tax law does not provide for a number of days rule when it comes to residency issues. The rules governing the individual's income taxation will be determined by reference to his or her tax residency status (i.e. Greek tax resident vs. non-Greek tax resident).

Tax trigger points

The taxability of employment income of non-Greek residents is determined by reference to the applicable double tax treaty for the avoidance of double taxation (if any).

On the assumption that the individual is registered as a non-Greek tax resident and in case of future tax audit, the Greek tax authorities might require tax residency certificates for the individual in order to evidence/support that he or she is tax resident (and therefore subject to tax on his or her worldwide income) in another jurisdiction/state. An individual who is not in a position to provide the requisite documents will automatically be classified as a Greek tax resident by the tax authorities who will seek to assess tax on his or her worldwide income plus penalties (if applicable) for inaccurate filings (when due).

Types of taxable income

Taxable income is classified into six categories (real estate, investment, employment, agricultural, business, and professional). Although income from each source is separately computed, individuals are subject to tax on the aggregate of income from all categories.

Married persons are subject to tax separately on their own income but are required to file a joint tax return.

Tax rates

The income tax scale and corresponding tax rates for all individuals for 2010 are as follows (amounts in euros):

Income bracket	Tax rate	Tax per bracket	Aggregate income	Aggregate tax
First 12,000	Exempt	0	12,000	0
Next 4,000	18 percent	720	16,000	720
Next 6,000	24 percent	1,440	22,000	2,160
Next 4,000	26 percent	1,040	26,000	3,200
Next 6,000	32 percent	1,920	32,000	5,120
Next 8,000	36 percent	2,880	40,000	8,000
Next 20,000	38 percent	7,600	60,000	15,600
Next 40,000	40 percent	16,000	100,000	31,600
Exceeding 100,000	45 percent			

Source: KPMG in Greece June 2010

For foreign tax resident individuals, with the exception of EU residents earning 90 percent of their income in Greece, the progressive income tax rates commence at 5 percent and not 0 percent and they have a lower amount of tax deductions.

Social security

Liability to social security

According to Greek law, all employers must register their employees with the relevant Greek social security fund on commencement of employment in Greece. In addition to the basic social security funds, employed persons must also be covered by a supplementary insurance fund. The main funds applicable to employed persons are the Social Insurance Fund (IKA) and the Employees' Supplementary Insurance Fund (TEAM). All employers are required to register their employee with IKA in the area where their operations are located. Their registration with and contributions to TEAM are dealt with by the IKA offices.

Compliance obligations

Employee compliance obligations

Personal income tax returns must be filed between 1 March and 31 May of the year following the end of the relevant tax year. The tax year for individuals is the calendar year.

Pensioners, salaried individuals, non-Greek residents who earn Greek-sourced income and Greek residents who earn foreign-sourced income file tax returns in May. Individuals who declare income from agricultural activities file tax returns in April. Individuals who declare income from commercial activities (self employment), on condition that they keep accounting books or earn income as freelance professionals, file tax returns in April.

The filing date depends on the last digit of an individual's Greek tax number (AFM).

Employer reporting and withholding requirements

Under Greek tax law, employment income is taxable in the hands of the employee in the year in which he is entitled to claim such income, whereas income tax withholding should be effected by the employer. Employers are under an obligation to withhold Greek income tax on the remuneration paid to employees in Greece, on a monthly basis (in Greece salary is payable 14 times per year). Amounts of payroll tax withheld on a monthly basis should be remitted by the employer to the tax authorities on a bi-monthly basis (except if the employer employed more than 500 people, in Greece, in which case the tax withheld would have to be remitted monthly).

Other

Work permit/visa requirements

Citizens of EU Member States must apply for a residence permit if they wish to work in Greece or decide to take up residence in Greece. A visit up to three months does not require a permit.

Citizens of countries outside the EU must apply for work visas before arriving in Greece if they wish to work in Greece, and apply for a resident permit immediately upon arrival.

Because the application procedure for work visas is lengthy, the procedure should be commenced well in advance of the planned date of arrival.

Some non-EU citizens may require visas to enter the country even for vacations or short business trips.

Double taxation treaties

Greece has entered into double taxation treaties with more than 40 countries to prevent double taxation and allow co-operation between Greece and other tax authorities in enforcing their respective tax laws.

Permanent establishment implications

Entities established in Greece are resident in Greece for tax purposes and are taxable on their worldwide income. A foreign entity is subject to Greek corporate tax on income arising in Greece if it has, or is deemed to have, a permanent establishment in Greece.

Foreign enterprises are generally regarded as having a permanent establishment in Greece if they:

- Maintain one or more branches, agencies, offices, warehouses, plants, laboratories or other facilities in Greece for the purpose of exploiting natural resources
- Are engaged in manufacturing activities or the processing of agricultural products
- Transact business or offer services through a representative in Greece who is authorized to negotiate and conclude contracts on behalf of the foreign enterprise
- Render services of a technical or scientific nature in Greece, even without a representative
- Keep inventories of merchandise for their own account out of which they fill orders
- Participate in a personal or limited liability company (partnership or EPE)

These criteria are superseded by the provisions of the double taxation treaties concluded by Greece with other countries which include a narrower definition of a permanent establishment.

Indirect taxes

Indirect taxation provides more than 50 percent of the state's tax revenue.

VAT was introduced in Greece in 1987 and is the most important indirect tax. The basic VAT rate applicable to all goods and services is 21 percent, except for some goods where a reduced rate applies.

Transfer pricing

The main anti-transfer pricing provision of Greek tax law is article 39 of Law 2238/1994, which implements the arm's-length principle. In particular, it provides that where domestic enterprises or a domestic and a foreign enterprise enter into a sale or service agreement and the price is unjustifiably higher or lower than that which would have been agreed had the agreement been concluded with another (unrelated) party under similar market circumstances (that is the arm's-length price) the difference is deemed as profit of the enterprise receiving less or paying more than the arm's-length price.

If a transfer pricing case is established, the tax authorities disallow the amounts exceeding the arm's-length charges for corporate income tax purposes (or adjust the revenues accordingly) and assess a penalty amounting to 20 percent of the respective difference identified for balance-sheets closing from 31 December, 2010 onwards.

Law 3728/2008 introduced documentation requirements for transfer pricing purposes and the amendment in the provisions of Law 2238/1994 also provides that the threshold of the value of the transactions on the basis of which an exemption from the documentation obligation is provided is reduced from EUR200,000 to EUR100,000.

Local data privacy requirements

Services performed within Greece shall comply with the provisions of the Greek and EU legislation regarding the protection of personal data. Greece has incorporated European directives regarding the protection of personal data.

Exchange control

There are no foreign exchange control restrictions. However, all monetary transfers abroad must be effected through commercial banks in Greece. When approving such transfers, commercial banks are obliged to ensure that the payment has been subject to or are exempt from withholding tax.

Payments and other transfers relating to current transactions between residents and non-residents must also be made through commercial banks operating in Greece, which may ask for certain supporting documentation (related to the authenticity of the transaction) prior to making payments.

Non-deductible costs for assignees

Non-Greek residents are not allowed any deductions from their income, unless they are citizens of the European Union earning more than 90 percent of their global income in Greece. If this condition applies, EU citizens are entitled to the tax-free bracket and most of the tax credits. European Union citizens who wish to claim these deductions should provide the Greek tax authorities with a certificate issued by the tax authority of the country where they are declared as residents, stating the amount of their worldwide income and the amount of Greek-sourced income.

Hong Kong

Introduction

There is no general income tax in Hong Kong. For income to be subject to tax, it must fall under one of the specific taxation headings, namely, salaries tax, profits tax, or property tax. Hong Kong adopts a territorial basis of taxation. A person's residence status is not determinative.

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Key messages

Visitors[1] who do not exceed 60 days of presence in Hong Kong in a year of assessment will be exempt from salaries tax. Extended business travelers who exceed 60 days of presence in a year of assessment may be assessed on employment income derived from services rendered in Hong Kong plus the attributable leave only, provided that they hold a non-Hong Kong located employment.

Income tax

Residence status is not determinative when considering a person's liability to salaries tax.

Liability to income tax

Taxation in Hong Kong is territorial. The residence status of an employee is not determinative when considering his or her liability to salaries tax. Hong Kong salaries tax is charged in respect of income arising in or derived from Hong Kong from any office or employment of profit. To determine the extent of salaries tax payable, it is first necessary to determine whether the income is derived from a Hong Kong located employment or a non-Hong Kong located employment. If an individual's employment is fundamentally located in Hong Kong, all income from the employment will fall within the scope of salaries tax. If an individual's employment is fundamentally located outside Hong Kong, the liability to salaries tax will be limited to tax income for services rendered in Hong Kong plus the attributable leave. The above does not apply to income derived from an office (such as company directors).

[1] This exemption is applicable to employees only. It does not apply to individuals who hold an office in a Hong Kong resident company.

Definition of source

The source of employment income is determined by the location of the employment. To determine the location of an employment, the Inland Revenue Department (IRD) will consider all the relevant facts, with particular emphasis on:

- Where the contract was negotiated and entered into, and is enforceable, whether in Hong Kong or outside Hong Kong.
- Where the employer is resident, whether in Hong Kong or outside Hong Kong.
- Where the employee's remuneration is paid to him or her, whether in Hong Kong or outside Hong Kong.

The IRD will look further than the external or superficial features of the employment to determine the location of the employment.

Tax trigger points

A full exemption from salaries tax can be claimed where an individual visits Hong Kong for not more than 60 days during the year of assessment (1 April to 31 March). This 60-day exemption is available only for income from an employment and does not apply to directors' fees.

Until recently, Hong Kong did not have an extensive network of comprehensive double taxation agreements. However, it is a stated government policy that agreements will be entered into and the government has recently done so with several countries. If a double taxation agreement is in place, an employee may be able to claim full exemption from salaries tax or tax credit relief under the relevant agreement.

Types of taxable income

For salaries tax purposes, income from any office or employment includes any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite, or allowance, whether derived from the employer or others. In addition, certain benefits (such as accommodation benefits, holiday journey benefits and amounts paid in connection with the education of an employee's child) are specifically taxable under the legislation.

Tax Rates

The maximum effective tax rate is currently 15 percent.

Social security

Liability to social security

Hong Kong does not have a social security tax system. However, all employees and self-employed persons over the age of 18 but below 65, normally residing and working in Hong Kong, are required to join a Mandatory Provident Fund (MPF) scheme. Exemption from the MPF requirements can be claimed where an individual is in Hong Kong for a limited period (13 months or less) or is a member of an overseas retirement scheme.

Compliance obligations

Tax returns are generally due within one month of the date of issue.

Employee compliance obligations

Every taxpayer is required to notify the Commissioner of Inland Revenue that he or she is chargeable to tax not later than four months after the end of the year of assessment in which he or she is chargeable. In general, individual tax returns are issued on the first working day of May following the tax year-end, which is 31 March. Extensions to the filing deadline are at the discretion of the IRD.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Hong Kong. The type of visa required will depend on the purpose of the individual's entry into Hong Kong.

Double taxation treaties

Hong Kong has entered into double taxation arrangements with Belgium, Luxembourg, the People's Republic of China, Thailand, the Netherlands (22 March 2010), Indonesia (23 March 2010), Hungary (12 May 2010) and Kuwait (13 May 2010). Negotiations are being held with several other countries.

Permanent establishment implications

The issue of whether a business is carried on in Hong Kong or whether profits are considered to be sourced in Hong Kong is a question of fact. Case law has established that very little actual activity needs to be performed in Hong Kong for an offshore entity to be regarded as carrying on business in Hong Kong. Depending on the nature of the particular income concerned, the source of profits is usually ascertained by looking at the operations that produce the profits in question and where those operations take place.

Indirect taxes

There is currently no value added tax (VAT) or goods and services tax (GST) levied in Hong Kong.

Transfer pricing

In December 2009, the IRD released Departmental Interpretation and Practice Notes (DIPN) Number 46, which sets out its interpretation and practice regarding transfer pricing methodologies and related issues. DIPN 46 provides for the first time a comprehensive transfer pricing framework in Hong Kong.

DIPN 46 is generally consistent with the OECD Guidelines and international transfer pricing practices. DIPN 46 states that the IRD will apply the arm's length principle to determine the appropriate price in the context of controlled transactions entered into by taxpayers and related parties located in other tax jurisdictions (whether Hong Kong has a double taxation agreement signed with those jurisdictions or not).

Local data privacy requirements

Hong Kong has data protection laws.

Exchange control

There are currently no foreign exchange controls on fund transfers.

Non-deductible costs for assignees

In general, a corporate deduction for expenses is allowed to the extent to which the expenses are incurred and related to profits assessable in Hong Kong. A deduction is only available for expenses which are related to revenue.

Hungary

Introduction

An individual's Hungarian income tax liability is determined by residence status and also by the source of the income. The taxes are levied using progressive rates. Residents are liable to tax on worldwide income; non-residents are taxed on Hungarian-sourced income. Tax credits are available up to certain income levels.

No special expatriate tax regime exists.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Hungarian work but treaty rules are examined closely.

Income tax

Liability to income tax

An individual's tax liability in Hungary depends on residence status. If an individual is resident, worldwide income must be declared in the annual tax return.

Non-resident individuals are taxed on their Hungarian-sourced income. Residence rules are determined very similarly to income tax treaty rules.

Most categories of income are aggregated but certain categories are taxed separately (such as dividends and capital gains).

Extended business travelers are likely to be considered resident if they spend more than 183 days in Hungary. If they spend less than six months then the treaty rules are used to determine tax liability.

Employment income is derived from Hungarian sources if it is paid by a Hungarian entity or the work is performed for a Hungarian entity or the Hungarian entity bears the costs of the employment.

Tax trigger points

There is no minimum number of days when determining tax liability. If an individual is non-resident in Hungary but the employment costs are borne by a Hungarian entity (i.e. the Hungarian entity is the economic employer) then even one day's work is taxable in Hungary.

Types of taxable income

For extended business travelers who are resident in Hungary, worldwide income is subject to tax in Hungary, but foreign-source income that has been subject to tax in a foreign country is exempted. If they are non-resident in Hungary, the types of income that are generally taxed are employment income and Hungarian-sourced income and gains from Hungarian assets (such as real estate). Fringe benefits provided by a Hungarian entity are taxed at the entity level unless they are subject to tax as income from employment.

Tax rates

Income is taxed at progressive rates. On annual gross salary of up to Hungarian forints (HUF) 5,000,000 17 percent tax is payable. Above this amount 850,000 HUF is payable, plus 32 percent on any excess amount. As of 1 January 2010 the Hungarian State has introduced the so-called ‘super gross’ system whereby aggregated income must be increased by a 27 percent correctional item and the taxes are calculated on this increased taxable base.

Social security

Liability to social security

Employers pay 27 percent social security contribution (24 percent pension, 2 percent health insurance contribution and 1 percent labor market contribution) on gross salary. Employers also pay 1.5 percent contribution to the Training Fund. All contributions are uncapped.

Employees pay 9.5 percent pension contribution (capped at HUF7,453,300 annual gross salary), 6 percent health insurance contribution and 1.5 percent contribution to the unemployment fund. These latter contributions are uncapped.

Social security is payable by individuals who are insured in their home country. If an extended business traveler is insured in an EU member country or in a country with which Hungary has a totalization agreement, those rules apply.

Compliance obligations

Employee compliance obligations

Tax returns are due by 20 May in the year following the tax year. No extension is available. In case of late filing, an excuse letter can be attached to avoid penalty on late filing.

If there is no local Hungarian employer but the individual receives the remuneration from a foreign entity, the individual is obliged to pay tax advances on a quarterly basis. This generally applies to extended business travelers.

Employer reporting and withholding requirements

If the employer pays any remuneration to an individual, taxes must be withheld and paid to the tax authority. Withholdings from employment income must be reported to the tax authority.

If there is no local Hungarian employer but the individual receives the remuneration from a foreign entity then the individual is obliged to pay tax advances on a quarterly basis.

Other

Work permit/visa requirements

Work permits and visas are required only for third-country nationals (i.e. non EU/EEA member country citizens). Visas and work permits must be obtained before entering Hungary. Work residence permits must be obtained after arrival.

EU/EEA citizens must obtain registration cards which are valid for five years.

Double taxation treaties

Hungary has an extended double tax treaty network with over 60 countries.

Permanent establishment implications

A permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT applies at 25 percent on most of the goods and services. Certain goods and services have a preferential lower rate. Excise duty tax is levied on several goods such as tobacco and fuel.

Transfer pricing

Hungary has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in Hungary and certain costs in relation to the work are charged to Hungary.

Local data privacy requirements

Hungary has data privacy laws.

Exchange control

Hungary does not restrict the flow of any currency into or out of the country. Certain reporting obligations are, however, imposed to control tax evasion and money laundering. Legislation requires financial institutions and other cash dealers to give notification of cash transactions over HUF3,600,000, suspicious cash transactions and certain international telegraphic or other electronic funds transfers. All currency transfers made by any person into or out of Hungary of HUF3,600,000 or more in value must be reported.

In the case of cash transactions over EUR1,000, the person must be identified.

Non-deductible costs for assignees

No costs are deductible from employment income.

India

Introduction

Income tax

An individual can be a resident and ordinarily resident (ROR), a resident but not ordinarily resident (NOR), or a non-resident (NR) for Indian tax purposes. RORs are taxed on worldwide income whereas NORs and NRs are generally taxed on Indian-sourced income only.

Foreign nationals may be exempt from tax in India if their stay in India does not exceed 90 days as prescribed in the Indian Income-tax Act, or 183 days under various double taxation avoidance agreements (DTAAs) into which India has entered with other countries, subject to satisfaction of some conditions.

Taxation varies based on the residency status of the individual in a tax year. The Indian tax year runs from 1 April to 31 March of the following year.

Residential status

An individual's Indian tax liability is determined by his or her residence status for the tax year. An individual can be a resident and ordinarily resident (ROR), resident but not ordinarily resident (NOR), or non-resident (NR) for Indian tax purposes. Based on their residence status, an individual is taxable as follows:

- ROR — Liable to tax on worldwide income
- NOR — Liable to tax on income sourced from India or received/deemed to be received in India or from income derived from a business controlled or set up in India
- NR — Liable to tax only on income sourced from India or received/deemed to be received in India

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Definition of source

Salary for services rendered in India is deemed to accrue in India and hence, taxable in India for all individuals, irrespective of the place of receipt. Salary entitlements paid for leave periods before or after services rendered in India, in line with an individual's employment contract, are also deemed to have been earned for services rendered in India.

Tax trigger points

Remuneration for services rendered by a foreign national, employed by a foreign enterprise during his or her stay in India, is exempt from tax in India if:

- The total period of the stay in India does not exceed 90 days in a financial year;
- The foreign enterprise is not engaged in any trade or business in India; and
- The remuneration is not charged to an employer subject to Indian income tax.

To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double taxation treaty, there will be no tax liability. The treaty exemption will not apply if the Indian entity is his or her economic employer.

Fringe Benefits Taxation (FBT) was withdrawn with effect from 1 April 2009. Accordingly, the benefits/ amenities provided by the employer will be taxable in the hands of employee as perquisites in accordance with income tax rules.

Social security

The Ministry of Labour and Employment , in a notification dated 1 October 2008, had amended the 'Employees Provident Fund Scheme, 1952' and the 'Employees Pension Scheme, 1995' collectively referred to as Indian Social Security Scheme. Accordingly, the scope of Indian Social Security Schemes was extended to specifically include a new concept of 'International Workers' (IW).

International Workers include expatriates working for an employer in India to which the Provident Fund Act applies and Indian employees working in a country with which India has entered into a Social Security Agreement (SSA).

IWs are exempt from contributing to Indian social security if:

- They are contributing to the home country social security scheme; and
- They fall into the category of detached worker for period specified in SSA.

A relief mechanism has been provided for 'Excluded Employees' which primarily refers to International Workers coming from a country with which India has entered into a Social Security Agreement (SSA).

SSA is a bilateral instrument designed to protect the interest of workers in the host country. It provides for the avoidance of no coverage/ double coverage and equality of treatment with host country workers. In certain agreements, it may also provide for the export of pension benefits from one country to another and the totalization of contribution periods to determine the eligibility of the benefits.

India currently has SSAs with Belgium, Germany, France, Switzerland, the Netherlands, Luxembourg, Hungary and Denmark. It is in the process of signing SSAs with other countries, including the Czech Republic, the United States, Norway, Australia, Sweden, UK and a few others.

The SSAs with Belgium and Germany became effective on 1 September 2009 and 1 October 2009 respectively.

Compliance obligations

Types of taxable income

Individuals are taxable on income from one or more of the following categories:

- Salaries
- Income from house property
- Profits and gains of business or profession
- Capital gains
- Income from other sources

Income under each category is computed separately. The net result of all categories is aggregated to arrive at gross total income. Taxable income is determined by subtracting specified deductions from the gross total income. The benefits/ amenities provided by employers to their employees are taxed as perquisites in line with the income tax rules that came into effect on 1 April 2009.

Tax rates

Financial Year 2009 – 2010:

Individuals are required to pay tax on their taxable income at graduated rates ranging from 10 percent to 30 percent. The maximum marginal tax rate for the tax year 2009 – 2010 (1 April 2009 to 31 March 2010) is 30 percent on income earned over 500,000 Indian Rupees (INR). An extra tax, which is applicable in India, called an education cess, is levied at a rate of 3 percent on the income tax.

Financial Year 2010 – 2011:

The maximum marginal tax rate for the tax year 2010–2011 (1 April 2010 to 31 March 2011) continues to be 30 percent on income earned over and above INR8,00,000. An education cess (see above) of 3 percent on the income tax is levied.

Employee compliance obligations

Individual taxpayers must file their returns by 31 July following the tax year-end, which is 31 March. Extensions of the filing deadline are not permitted. Where a taxpayer files a return after the due date, interest is levied at 1 percent per month (or part thereof) for each month of delay on the balance tax payable.

Liability to social security

International Workers (other than Excluded Employees) are required to contribute 12 percent of the specified salary to the Indian social security scheme. Employers are also required to contribute 12 percent of their employees' specified salary to the scheme. The contribution is required to be deposited on a monthly basis by the 15th of the subsequent month. Necessary forms and returns are required to be filed with the authorities as per the prescribed timelines.

Other

Foreign nationals may be required to register with the Foreigner's Regional Registration Office (FRRO).

The tax deducted is required to be deposited with the central government within seven days from the end of the month of deducting the tax. A certificate is required to be issued to the employee in respect of tax deducted, within one month from the end of the tax year. The employer is also required to submit a return of tax deducted on a quarterly basis to the tax authority.

Work permit/visa requirements

A visa must be applied for before the individual enters India. The type of visa required will depend on the purpose of the individual's entry into India. Every foreign national arriving on a visa that is valid for more than 180 days in India must ensure that he or is registered with the FRRO of the city in which he or she lives. An employment visa is required to be registered within 14 days of the individual's first arrival on employment in India.

The Ministry of Home Affairs (MHA) has issued certain 'frequently asked questions' on work-related visas being issued in India clarifying the purpose, duration and various scenarios under which business and/or employment Visas may be granted to foreign nationals

The Government of India's Ministry of Labour and Employment has recently issued new visa guidelines prescribing a ceiling in respect of issuance of employment visas to foreign nationals coming to India for execution of projects in India for all sectors.

Double taxation treaties

In addition to India's domestic arrangements that provide relief from international double taxation, India has entered into double taxation treaties with 86 countries to prevent double taxation and allow cooperation between India and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment (PE) could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has. A detailed analysis is recommended in order to determine the possible PE implications.

Wealth tax/indirect tax

India does not impose an estate duty, but does impose wealth tax on specified assets. In addition, customs duty is payable on certain specified goods brought into India and other indirect taxes such as VAT/sales tax, expenditure tax, and service tax are payable on purchases of goods and services.

Transfer pricing

India has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

There are currently no data privacy laws in India.

Exchange control

As per the Exchange Control Regulations, a foreign citizen resident in India who is an employee of a foreign company having an office/branch/ subsidiary/joint venture may open, hold and maintain a foreign currency account with the bank outside India and receive the whole salary payable to him or her in that account provided that income tax is paid on the said salary accrued in India.

A foreign citizen of a foreign state resident in India employed with an Indian company can open, hold and maintain a foreign currency account with a bank outside India and can remit the whole salary received in India to such an account overseas provided the income tax is paid on the entire salary in India.

Indonesia

Introduction

Income tax

Indonesia adopts the self-assessment method for individuals to calculate, settle and report income tax. The extent of the Indonesian tax liability is dependent on the individual's residence status in Indonesia.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their period of stay in Indonesia. A permanent establishment may potentially be created as a result of visits of these business travelers. Corporations should be mindful of the visa used by their extended business travelers to Indonesia.

Liability to income tax

A person's liability to Indonesian tax is determined by his or her residence status. Residents are taxed on their worldwide income, including capital gains, regardless of where such income arises or if funds are remitted into the country. Taxable income is determined after subtracting allowable deductions and personal allowances.

A person is considered resident in Indonesia if he or she is present in Indonesia for a total period of more than 183 days in any 12-month period, or if he or she resides in Indonesia with the intention of staying.

Non-resident individuals are individuals who are not resident in Indonesia for tax purposes. Non-residents are assessed only on income sourced in Indonesia, including Indonesian-sourced capital gains.

Definition of source

Employment income is generally treated as Indonesian-sourced compensation where the individual performs the services while physically present in Indonesia.

Tax trigger points

Based on domestic income tax law, companies need to be aware that individuals providing services on behalf of an offshore company may trigger a tax position if:

a. They are present in Indonesia for more than 60 days in any 12-month period; or

b. The cost is borne or reimbursed by the domestic entity.

For the individual, technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Indonesia. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption varies depending on the test time and the applicable double tax treaty.

Social security

Extended business travelers already participating in a social security scheme in their home country would not be required to contribute to Indonesia's social security scheme, known as JAMSOSTEK.

Compliance obligations

Types of taxable income

For extended business travelers who qualify as being resident in Indonesia, the types of income that are generally taxed are their worldwide income, including employment income and personal investment income.

Tax rates

Net taxable income for residents is taxed at graduated rates. The current rates start from 5 percent up to a maximum of 30 percent for income earned over 500 million Indonesian rupiah (IDR).

Non-residents are subject to a final withholding tax of 20 percent on gross income.

Liability to social security

The national social security scheme (JAMSOSTEK) covers all employees and workers in public or private entities. The current pension contribution rate is 5.7 percent of an employee's gross salary (3.7 percent contributed by the employer and 2.0 percent contributed by the employee). Extended business travelers who are already covered by similar schemes in their home countries would not be required to contribute to JAMSOSTEK. The national social security scheme also requires employers to make contributions towards work accident insurance, death insurance, and health insurance. The contribution rates are dependent on the employer's industry.

Employee compliance obligations

The tax year is the calendar year. Indonesia operates a self-assessment system whereby all individuals are required to complete a tax return and compute their tax liability by 31 March in the following tax year. Annual tax payments are due before this lodgment deadline.

In order to file a tax return, an individual must register to obtain a tax identification number (NPWP). Employees without NPWP are subject to 20 percent tax surcharge.

Individual entrepreneurs and professionals, and also individuals who have tax payable because of their passive income, are required to pay and file monthly returns by the 15th and the 20th of the following month, respectively.

Non-residents do not have an obligation to register for an NPWP or file an individual tax return.

Employer compliance obligations

The obligation to withhold and report tax on cash compensation paid in connection with employment rests with the employer entity. Income tax withheld by employers must be remitted on a monthly basis by the 10th day of the following month and reported by the 20th day of the following month.

Other

Work permit/visa requirements

Business travelers can obtain a visa on arrival for the purpose of business meetings for a period of either six or 30 days. This 'business meeting' visa cannot be used for working in Indonesia. For the purposes of working, individuals are required to apply for a work visa, sponsored by an Indonesian entity, before entering Indonesia.

Double taxation treaties

In addition to Indonesia's domestic arrangements that provide relief from international double taxation, Indonesia has entered into double taxation treaties with more than 57 countries to prevent double taxation and allow cooperation between Indonesia and overseas tax authorities in enforcing their respective tax laws. When applying for relief, a certificate of domicile should be presented.

Permanent establishment implications

A permanent establishment may be created through the provision of services in any form by an individual for more than 60 days in a 12-month period. However, the potential should be reviewed on a case-by-case basis and with a reference to the permanent establishment article of the applicable double tax treaty for the time test.

Indirect taxes

The VAT rate generally applied to taxable goods and services is 10 percent. Sales tax on luxury goods may be as high as 75 percent. There are also regional taxes imposed by the local government on various facilities.

VAT registration may, in some circumstances, be required for a corporation or an entity. VAT registration by non-residents, however, is not permitted.

Transfer pricing

The newly revised Income Tax Law 36/2008 introduces a potential adjustment to the employment cost where the Indonesian employer treats the employment cost as a fee or other expenses paid to an offshore related party company.

Local data privacy requirements

There are general privacy obligations under the Law of General Provision and Tax Procedures. These can be waived for the purposes of criminal investigation or by request/permission from the Minister of Finance.

Exchange control

Indonesia has no foreign exchange controls and funds may be freely transferred to and from abroad. Transfers exceeding USD10,000, however, must be reported to the Bank of Indonesia. All major currencies are freely convertible into IDR and deposit accounts can be maintained in foreign currencies.

Purchase of foreign currency against IDR in excess of USD100,000 or equivalent in a month through banks may only be granted if there is evidence of the underlying transaction. The required supporting documents include:

1. Valid documents on the underlying transactions;
2. The customer's identity card and copy of the tax identification number (for residents); and
3. Statement signed by the authorized person with adequate stamp duty, which guarantees the validity of document number 1 and confirms that it will only be used to purchase the allowable amount of foreign currency.

For purchase of foreign currency below USD100,000, the bank has to obtain a statement from the customer with adequate stamp duty that the customer will not purchase foreign currency in excess of USD100,000 in a month.

Non-deductible costs for assignees

Where benefits-in-kind are not taxable to employees, they are non-deductible for the employer for corporate tax purposes. Benefits-in-kind, however, are taxable to employees working for employers who are:

a. Only subject to final tax;

b. Are taxed on a deemed profit basis; or

c. Are representative offices (and have not been required to report their corporate income).

Ireland

Introduction

An individual's liability to Irish income tax depends on:

- Whether he or she is resident in Ireland
- Whether he or she is ordinarily resident in Ireland
- Whether he or she is domiciled in Ireland

An individual's liability to Irish tax will also depend on the source of income derived by him or her.

Irish income tax is levied at progressive rates on an individual's taxable income for the year and is calculated by subtracting allowable deductions/credits from the total assessable income.

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Key messages

The number of days spent by an extended business traveler in Ireland will determine whether or not he or she will be taxable on his or her employment income relating to Irish work days, subject to the terms of the relevant double taxation agreement (if applicable).

Income tax

Liability to income tax

An individual's liability to Irish income tax is dependent on whether he or she is resident, ordinarily resident and/or domiciled in Ireland.

An individual will be considered resident in Ireland if he or she is present in Ireland for:

- 183 days or more; or
- 280 days or more in the tax year (ie the calendar year).

A day is counted if an individual is present in Ireland for any part of the day.

An individual must be present in Ireland for at least 30 days in any year to be considered resident in Ireland for that year.

An individual will be ordinarily resident in Ireland if he or she is resident in Ireland for three consecutive tax years.

Domicile is a legal concept based on the notion of an individual's permanent home. An extended business traveler in Ireland will be considered non-domiciled in Ireland as he or she will retain a domicile of choice in his or her home country.

An individual who is resident and domiciled in Ireland or, (from 2010), an individual who is resident, but not ordinarily resident in Ireland is liable to Irish income tax on his or her worldwide income.

An individual who is resident but not domiciled in Ireland will be liable to Irish income tax on his or her Irish-sourced income including income relating to an Irish employment or work duties performed in Ireland. He or she will be taxable on any foreign income to the extent that the income is remitted to Ireland.

A non-resident, non-domiciled individual will be liable to Irish income tax on Irish-sourced income only, including income related to Irish employment duties.

Tax trigger points

If an individual spends 183 days or more in Ireland in the tax year, he or she will be liable to pay income tax on any Irish-sourced income and also on any employment income related to Irish duties.

Relief may be available under the relevant double taxation agreement (DTA) if the individual is coming to Ireland from a country with which Ireland has concluded a DTA.

Types of taxable income

For extended business travelers, the types of income that are generally taxed in Ireland are employment income related to Irish employment duties, Irish-sourced income and gains from Irish specified assets (such as Irish land and buildings).

Tax rates

Taxable income is taxed in Ireland at graduated rates ranging from 20 percent to 41 percent depending on the level of income earned by the individual.

Individuals resident in Ireland are subject to tax at 20 percent on the first 36,400 euros (EUR) of income and are subject to tax at the rate of 41 percent on income above this level. An income levy at graduated rates of 2 percent, 4 percent and 6 percent on gross income may also apply depending on the level of income earned by the individual.

Social security

Liability to social security

Social security is payable in Ireland at a rate of 4 percent on income up to EUR75,036.

A health levy at rates of 4 percent on income up to EUR75,036 and 5 percent on income above this level is also payable.

An individual who is employed in Ireland will be liable to pay social security in relation to his or her employment income and also on any non-employment income that is taxable in Ireland.

If the individual is seconded to work in Ireland from a country with which Ireland has concluded a totalization agreement or from another EEA country and is in possession of a valid certificate of coverage or E101 certificate he or she will not be liable to pay Irish social security contributions (health levy and income levy) for up to the first five years of his or her secondment to Ireland.

Compliance obligations

Employee compliance obligations

Tax returns are due for filing by 31 October following the tax year-end, which is 31 December. Individuals may use the extended deadline to 17 November if they file tax return on-line using the Revenue on-line facility.

Tax returns are required to be filed by non-residents who derive any Irish-sourced income (other than Irish dividend income or interest income, which are subject to final withholding tax).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable in respect of employment income, the employer has a PAYE withholding requirement.

Where an employee performs duties in Ireland on behalf of a non-resident employer, an obligation is imposed on the non-resident employer to operate PAYE on compensation paid to employees carrying out duties of the employment in Ireland.

Where an employee works for an entity based in Ireland (a relevant person) and is employed by a non-resident employer, and if PAYE is not applied by the employer, the relevant person will be held accountable for the PAYE due. Where the compensation covers the performance of duties both in Ireland and in the home country, PAYE need only be applied to the compensation that relates to the duties carried out in Ireland.

If an individual spends less than 60 work days in Ireland in the year (and a number of other conditions are met) it is possible that he or she will be exempt from PAYE on his or her employment income.

If an individual is present in Ireland for more than 60 days but less than 183 days (and a number of other conditions are met) it is possible that he or she will be exempt from PAYE on his or her employment income. In order for this to apply, foreign withholding tax must be operated in the home country of the employee.

The above 60/183 day exemptions apply to individuals coming to Ireland from a country with which Ireland has a double taxation agreement.

Other

Work permit/visa requirements

Individuals from certain countries must apply for a visa before entering Ireland.

Broadly speaking, non-EU/EEA individuals must apply for a work permit before commencing employment in Ireland.

Double taxation treaties

In addition to Ireland's domestic arrangements that provide relief from international double taxation, Ireland has entered into double taxation treaties with 48 countries and is presently in the process of negotiating a number of additional treaties.

The aim of the double taxation treaties is to prevent double taxation and allow co-operation between Ireland and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this will be dependent on the types of services performed and the level of authority the employee has.

Indirect taxes

Value Added Tax (VAT) is applicable at a rate of 21 percent in respect of the supply of taxable goods or services above certain thresholds. VAT registration may, in certain circumstances, be required.

Transfer pricing

Ireland does not have any transfer pricing rules.

Local data privacy requirements

Ireland has data privacy laws.

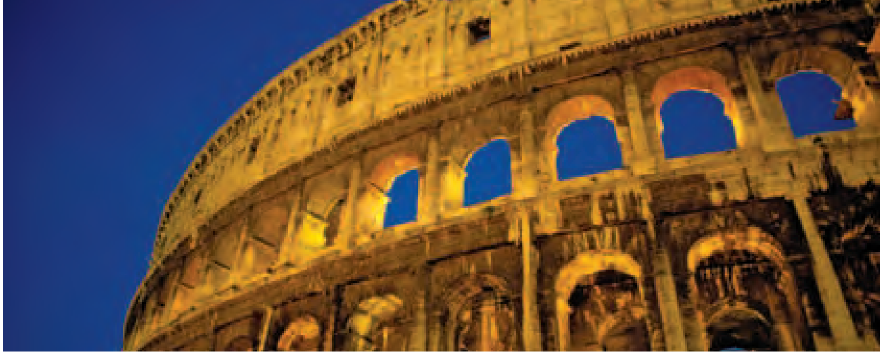
Exchange control

Ireland does not restrict the flow of Irish or foreign currency into or out of the country. Certain reporting obligations are, however, imposed to control tax evasion and money laundering.

Financial institutions are obliged to take certain special measures to prevent money laundering. One of these measures is the requirement that financial institutions establish the identity of customers and report any suspicions of money laundering directly to the police.

Non-deductible costs for assignees

There are provisions in place to allow for a deduction from employment income taxable in Ireland for contributions made by an individual to a pension scheme in another EU Member State or country with which Ireland has a double tax agreement, provided a number of conditions are met.



Italy

Introduction

A person's liability to Italian tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year; this is calculated by subtracting allowable deductions from the total assessable income.

Extended business travelers are likely to be taxed on employment income relating to their Italian labor contract.

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Income tax

Liability to income tax

A person's liability to Italian tax is determined by his or her residence status. A person can be a resident or a non-resident for Italian tax purposes.

An individual will be considered to be an Italian resident for tax purposes, subject to tax treaty provisions, if one of the following conditions is met:

- The individual is registered in the Office of Records of the Resident Population for the greater part of the tax year;
- The individual stays for the greater part of the tax year in the territory of the state; or
- The individual has his or her center of business or economic interests in Italy for the greater part of the tax year.

It is enough that only one of the three conditions above is met, even without continuity, for the greater part of the tax year, to qualify the individual as an Italian tax resident.

The general rule is that a person who is a resident of Italy is assessable on his or her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in Italy. Extended business travelers are likely to be considered non-resident of Italy if the above three conditions are not met for 183 days or more.

Employment income is generally treated as Italian-sourced compensation where the individual performs the services while physically located in Italy.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Italy. To the extent that the individual qualifies for relief under the dependent personal services article of an applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Italian entity is his or her economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income, Italian-sourced income and gains from taxable Italian assets (such as real estate) and fringe benefits (broadly non-cash employment income).

Tax rates

Net taxable income is taxed at progressive rates ranging from 23 percent to 43 percent. The tax rates do not include Regional Tax and Municipal Tax. The regional tax rate depends on the region in which the individual has his or her domicile. Generally, this amount will be charged at progressive rates between 0.9 percent and 1.4 percent. The additional municipal tax of up to 0.8 percent has to be added to the above percentages with the consequence that income taxes could be higher, depending on the Italian municipality in which the individual has his or her domicile.

Social security

Liability to social security

A state-run system of social security operates in Italy, covering illness, maternity, unemployment, old-age pension, disability and family allowances. Financing of this system is provided by contributions from employees and employers, calculated as a percentage of gross remuneration. These contributions represent a relatively high surcharge on labor costs, and therefore are of paramount importance in determining business operational costs. The employer's part of the social security contributions is approximately 29 – 32 percent of the gross salary, whereas the employees contribute approximately 10 percent. Similar percentages apply for executives, although contributions can be made via different types of specialized funds. It is compulsory in Italy to pay for a national insurance contribution known as INAIL (National Institute for Accidents at Work) as coverage for all professional risks. This insurance covers the risks of employees' accidents or diseases at work. The cost of this insurance ranges approximately from 0.4 – 3 percent of the gross salary.

Compliance obligations

Employee compliance obligations

Income tax is generally due by 16 June of the subsequent year; although the Italian Revenue can accept delayed payments with interest. The Italian income tax return has to be filed electronically by 30 September. The deadline could be further extended by the Italian government through a special legislative provision for each fiscal year.

Employer reporting and withholding requirements

Salaries and other remuneration from employment paid by Italian companies, businesses and professionals are subject to an advance withholding tax, which may be credited against the recipient's income tax liability. The tax is withheld, applying the ordinary income tax rates, and adjusted according to the period for which the payment is made.

If an individual is taxable in respect of employment income, the Italian payer has a withholding requirement. Where the payer is a non-resident, there is not a withholding requirement and the employee pays the income taxes due by the self-assessment process.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Italy. The type of visa required will depend on the purpose of the individual's entry into Italy.

Entrance requirements, immigration procedure and working activity are regulated by the Schengen agreements, relating to a common area of free movement among the signatory States with elimination of border controls. EU citizens possessing a standard passport can travel in Italy and are exempt from an entrance visa.

Double taxation treaties

In addition to Italy's domestic arrangements that provide relief from international double taxation, Italy has entered into double taxation treaties with more than 40 countries to prevent double taxation and allow co-operation between Italy and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Goods and Services Tax (VAT) is applicable at 20 percent in respect of taxable supplies. VAT registration may, in some circumstances, be required.

Transfer pricing

Italy has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

The transfer pricing regulations are based on the arm's-length principle, whereby the conditions applied in the intra-group transaction should compare with those that would be applied between unrelated entities in comparable transactions. The tax authorities may apply this rule automatically if the taxable income is thereby increased; conversely, a reduction of the taxable income would be possible only on the application of double tax treaties.

Local data privacy requirements

Italy has data privacy laws.

Exchange control

Italy does not restrict the flow of Italian or foreign currency into or out of the country, although, certain reporting obligations are imposed to control tax evasion and money laundering.

Independently from the obligation to file an income tax return, all Italian tax-resident individuals must comply with exchange control regulations in Italy and should consider if they also have to declare their foreign investments/transfers to and from abroad.

Exchange control reporting is required if Italian tax-resident individuals transfer cash or shares to or from Italy in excess of 10,000 euros (EUR) (or the equivalent amount in foreign currency). Italian tax-resident individuals may be exempt from this formality if the payments are made through an authorized broker resident in Italy, as that entity would comply with the reporting obligation on the participant's behalf.

Italian tax-resident individuals are also required to report any foreign investments held outside Italy in excess of EUR10,000 (or the equivalent amount in foreign currency) and the amount of transfers to and from Italy during the calendar year relating to Italian tax-resident individuals' foreign investments held outside Italy. If reporting is required, it must be done on the Italian tax-resident individual's tax return, through an appropriate form known as RW. There are severe penalties for failure to complete this form.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-EU pension funds.

Jamaica

Introduction

A person's liability to Jamaican tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Residents are assessed for income tax at a flat rate above a certain limit on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. Non-residents are assessed for income tax at a flat rate.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Jamaican work days. Extended business travelers who are present in the island for over 90 days may, however, be taxed on the income earned in relation to work done elsewhere in relation to Jamaica.

Income tax

Liability to income tax

A person's liability to Jamaican tax is determined by his or her residence status and whether he earns Jamaican-sourced income. A person can be a resident or a non-resident for Jamaican tax purposes.

An individual is regarded as being resident in Jamaica in a tax year if he or she meets any of the following criteria:

- He or she remains in Jamaica for a period totaling at least six months in the tax year, including multiple visits to Jamaica with the intention to reside permanently;
- He or she has a place of abode in Jamaica and has come to Jamaica during the tax year; or
- He or she has visited the island for the preceding four consecutive years and stayed an average of three months in each year.

A non-resident of Jamaica is generally someone who spends less than six months in Jamaica. The general rule is that a person who is a resident of Jamaica is assessable on his or her worldwide income. Non-residents and temporary residents are generally assessable on income derived directly or indirectly from sources in Jamaica. Extended business travelers are likely to be considered non-residents of Jamaica for tax purposes unless they enter Jamaica with the intention to remain in Jamaica for more than six months.

Definition of source

Employment income is generally treated as Jamaican-sourced compensation when the individual is physically located in Jamaica for 90 days or more and the employment income relates to work done in the island or elsewhere in relation to the island.

Tax trigger points

Under local law, an extended business traveler who is in Jamaica for less than 90 days is exempt from income tax on the traveler's foreign-sourced employment income if it is not received in Jamaica. The person would not be required to file an income tax return unless the Commissioner of Taxpayer Audit and Assessment requests that the individual does so.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Jamaican-sourced income.

Tax rates

For 2010 residents, the following progressive tax rates apply to taxable income above 441,168 Jamaican dollars (JMD):

Taxable Income	Tax rate
JMD441,169 – JMD5,000,000	25 percent
JMD5,000,001 – JMD10,000,000	27.5 percent
JMD10,000,001 – above	35 percent

Taxable income below the floor amount is not taxable. Non-residents are subject to a 25 percent rate on total taxable income.

Social security

Liability to social security

Employers are required to deduct and account for National Insurance Scheme (NIS), National Housing Trust (NHT), and Education Tax (Ed Tax) from the salaries of employees.

Under the NIS Act, employers are required to deduct amounts from the employee's salary at a rate of 2.5 percent on emoluments not exceeding JMD500,000 per year, while also paying the employer's contribution of the equivalent amount.

Persons not required to make contributions under the National Insurance Act can apply for the status of voluntary contributors. This status must be granted by application to the minister of Labour and Social Security.

The NHT is applied at a rate of 2 percent for employees' contributions and 3 percent for employers' contributions. These rates are applied to the gross taxable emoluments of employees as defined in the Income Tax Act.

The Education Tax is applied on gross taxable emoluments, less NIS, at a rate of 2 percent for employees and 3 percent for employers.

Self-employed persons are also required to make payments under the provisions of these Acts.

Employee and employer contribution rates are summarized in the following table:

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
National Insurance Scheme (NB only applies to income up to JMD500,000 per year)	2.5	2.5	5.0
National Housing Trust	3.0	2.0	5.0
Education Tax	3.0	2.0	5.0

Source: KPMG in Jamaica June 2010

Jamaica has entered into formal social security totalization agreements with approximately 16 countries. One agreement covers 14 CARICOM (Caribbean Community and Common Market) countries (although the agreement is not yet in force with three of those countries). The other agreements are with Canada and the United Kingdom. The agreements prevent double taxation and allow cooperation between the Jamaican and overseas tax authorities in enforcing their respective tax laws.

Compliance obligations

Employee compliance obligations

Tax returns are due by 15 March following the tax year-end, which is 31 December. Extensions are granted at the sole discretion of the Commissioner of Taxpayer Audit and Assessment. A return may not be required if a taxpayer's sole source of income is wages that were subject to withholding.

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable in respect to employment income, the payer has a PAYE withholding requirement.

Other

Work permit/visa requirements

Jamaica does not have a specific business visa process. Entry requirements will vary by country of citizenship. Citizens of the United States, United Kingdom, and Canada may be able to enter the country on certain sales and marketing business travel for up 30 days with a valid passport. All other citizens and business travelers should consult with the Jamaican embassies to understand specific entry requirements.

Foreign nationals must obtain a work permit to engage in gainful employment in Jamaica. Certain persons may qualify for exemption from the work permit requirement if they will not be in the island for more than 14 days. Such persons include directors of a Jamaican company or of a company that controls a Jamaican company and persons providing technical advice on the operations of a business in Jamaica. The qualified persons should apply to the ministry of Labour and Social Security for the relevant work permit exemption approval.

Double taxation treaties

In addition to Jamaica's domestic arrangements that provide relief from international double taxation, Jamaica has entered into double taxation treaties with more than 22 countries to prevent double taxation and allow cooperation between Jamaica and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

General Consumption Tax (GCT) is applicable at 17.5 percent with respect to taxable supplies. GCT registration may, in some circumstances, be required, especially when annual turnover exceeds JMD3 million.

Transfer pricing

Jamaica does not have specific transfer pricing rules. Rather, specific anti-avoidance provisions carry out a similar function in that, where the consideration for a service rendered by a connected party is substantially different from that obtainable at market rates, the Commissioner of Taxpayer Audit and Assessment may impute a consideration equivalent to the market rate and assess the parties accordingly.

Local data privacy requirements

Jamaica has limited data privacy laws, the most recent enactment being in relation to electronic transactions in commercial arrangements.

Exchange control

Jamaica does not restrict the flow of Jamaican or foreign currency into or out of the country.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-approved pension funds.

Japan

Introduction

Income tax

Permanent residents are taxed on their worldwide income whereas non-permanent residents are taxed on their Japanese-sourced income, regardless of where it is paid, and their foreign-sourced income remitted into Japan. Non-residents are taxed on Japanese-sourced income only.

Individual income taxes in Japan consist of a national income tax (NIT) and a local inhabitant tax (LIT). Tax treatment is dependent upon residency status.

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Liability to income tax

A person's liability to Japanese tax is determined by his or her residency status. There are two categories of individual taxpayers: resident and non-resident. A resident is an individual who has a domicile in Japan or has resided in Japan for a continuous period of one year or more. A resident is further classified as either a non-permanent resident or a permanent resident. A non-permanent resident is an individual who is not a Japanese national and has had a domicile in Japan for more than one year and less than five years in the last 10 years. A non-permanent resident is taxed on his or her Japanese-sourced income, regardless of where it is paid, and foreign-sourced income remitted into Japan. A permanent resident is a resident other than a non-permanent resident. Therefore, an individual who is a Japanese national, who has a domicile in Japan or has resided in Japan for more than five years in the last 10 years is considered a permanent resident. A permanent resident is subject to income tax on worldwide income regardless of source. A non-resident is an individual other than resident. A non-resident is taxed only on Japanese-sourced income, without deductions or exemptions. If a non-resident is a resident of a country with which Japan has concluded a tax treaty, income may be either exempt or subject to a lower rate of tax. A non-resident is not subject to local inhabitant tax. Extended business travelers are likely considered non-residents for Japanese tax purposes unless their assignment periods are one year or longer.

Definition of source

Employment income is considered to arise at the location in which employment services are rendered. Therefore, salary, wage, bonus, or similar remuneration paid to an employee for services performed in Japan is considered Japanese-sourced income.

Japan also levies a 10 percent local inhabitant tax.

Social security

Compliance obligations

Tax returns are due by 15 March.

No extension is allowed and late filing should be subject to penalty and interest.

Other

Japan has an extensive tax treaty network.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Japan. Generally, Japan's double tax treaties are in line with OECD Model Treaty with respect to the tax-exempt treatment of foreign employees temporarily working in Japan. Japan does not, however, adopt the economic employer concept when considering the application of a double tax treaty.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are Japanese-sourced employment income.

Tax rates

For residents, net taxable income is taxed at graduated rates ranging from five percent to 40 percent as national income tax, plus 10 percent local inhabitant tax. Non-residents are subject to national income tax at a flat rate of 20 percent. Non-residents are not subject to local inhabitant tax.

Liability to social security

The social insurance program in Japan consists of health insurance, nursing care insurance, pension insurance, employment insurance, and workers' accident compensation insurance. Any individuals who meet the prescribed conditions are expected to participate in these systems as an insured person, regardless of nationality. Individuals who are paid from outside Japan are not required to participate in these systems. An exemption can apply where there is a totalization agreement between Japan and the home country.

Employee compliance obligations

Tax returns are due by 15 March following the tax year-end, which is 31 December. When a taxpayer leaves Japan, he or she must file a tax return before the departure date or by 15 March of the following year if a tax agent is appointed. Extensions of the filing deadline are not available.

Employer reporting and withholding requirements

If compensation is paid through an onshore payroll, the employer is required to withhold income tax on the payments. If the employer of non-residents has an office or place of business in Japan and Japanese-sourced compensation is paid to non-residents outside Japan, the employer is required to withhold non-resident income tax on payments.

Work permit/visa requirements

A visa must be applied for before the individual enters Japan. The type of visa required will depend on the purpose of the individual's entry into Japan.

Double taxation treaties

In addition to Japan's domestic arrangements that provide relief from international double taxation, Japan has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow cooperation between Japan and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

The Japanese Corporation Tax Law provides three types of permanent establishments: a fixed place of business permanent establishment, a long-term construction project permanent establishment, and an agency permanent establishment. There is potential that a permanent establishment of a foreign corporation could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has for the foreign corporation.

Indirect taxes

Consumption tax is applicable at 5 percent in respect of taxable supplies. Consumption tax registration may, in some circumstances, be required.

Transfer pricing

Japan has a transfer pricing regime. Transfer pricing implications could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Japan has data privacy laws.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employee to non-Japanese pension funds with minor exceptions.

The Lao People's Democratic Republic

Introduction

A person's liability to Laos tax is primarily determined by the source of the income. Income generated in the Lao PDR is subject to tax. There are no explicit income tax consequences arising from an individual being resident or non-resident, although the tax law does state that the law applies to foreign persons carrying on a business or earning a living in the Lao PDR, irrespective of the number of days spent there.

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Key messages

Income arising in the Lao PDR is taxable in the Lao PDR. The taxation of income from other sources depends on the individual's ties to the Lao PDR.

Income tax

The Lao PDR imposes personal income tax on the Lao PDR-sourced income both of residents and non-residents, with the taxation of worldwide income being dependent on the ties which a taxpayer has to the Lao PDR.

Liability to income tax

A resident of the Lao PDR is generally understood to refer to an individual who earns a living 'on a temporary or permanent basis' in the Lao PDR, or resides there. It also includes persons who have a place of business in the Lao PDR regardless of where income is generated. A non-resident is subject to tax on his or her Laos-sourced income only.

Definition of source

There is no clear definition of what is considered Lao PDR-sourced income. Employment income is generally treated as Laos-sourced compensation where the individual performs the services in Laos and/or for the business of a Laos employer.

Tax trigger points

A resident or non-resident is subject to Lao PDR tax on Laos-sourced income. Foreign individuals may also be subject to Lao tax depending on their ties to the country.

Types of taxable income

Assessable income includes income from employment including benefits, either in cash or in-kind.

Social security

Employers and employees contribute to the Social Security Fund.

Compliance obligations

Employers are required to withhold tax and remit this to tax authorities monthly.

Other

The Lao PDR has a limited tax treaty network.

Tax rates

A foreign person who is employed by an entity falling under the Foreign Investment Law (FIL) is subject to tax at a flat rate of 10 percent. The majority of expatriates currently working in the Lao PDR are subject to this regime. A Lao PDR national or foreign person not covered by the FIL rate is subject to progressive rates up to 25 percent. The maximum tax rate is currently 25 percent on income over 15 million Lao kip (LAK).

Liability to social security

Employees are required to make contributions to the Social Security Fund amounting to 4.5 percent of the employee's salary, up to a maximum of LAK67,500 per month (capped once an employee's salary exceeds LAK1.5 million per month). Employers are also required to contribute to the Social Security Fund for their employees. The rate of contribution to be made by the employer is 5 percent of the employee's salary, up to a maximum amount of LAK75,000 per month.

Employee compliance obligations

Residents are not required to submit tax returns. There is no specific concept of 'non resident' in Lao tax law; therefore, any individuals who are present in the country for less than 183 days would need to evaluate their compliance position on a case-by-case basis.

Employer reporting and withholding requirements

Employers are required to withhold income tax from salary and benefits paid to employees. Payment of salary tax to the tax authorities is made on a monthly basis, on or before the 15th day of the following month. Payroll tax is also deducted at source by the employer on a monthly basis. Payment is due on or before the 15th of the following month.

Work permit/visa requirements

Hiring a foreign employee requires approval from the Labour Administration Agency (Ministry of Labor and Social Welfare). Foreign employees who enter into long-term contracts must apply for a business visa, ID card, and work permit, which must be sponsored by a company established in the Lao PDR.

Double taxation treaties

The Lao PDR has signed double taxation treaties with various countries including China, South Korea, North Korea, Vietnam, Brunei, Russian Federation, Kuwait, and Thailand.

Laos levies turnover tax, a form of a goods and services tax.

Permanent establishment implications

There is no concept of permanent establishment in Lao PDR. In practice, the authorities expect any enterprises doing business in the Lao PDR for more than 30 days to register and pay tax. Foreign businesses with no physical activities in Lao PDR are also required to pay corporate tax on their Lao source income, potentially using Government established profitability ratios. The mechanism functions in a manner similar to withholding tax. Some double tax treaties may override this.

Indirect taxes

From 1 January 2010 onwards the business operators who have a minimum annual business turnover of LAK400 million must start using Value Added Tax (VAT), the VAT system is a system within the general tax system. It replaces only the Business Turnover Tax (BTT). The current applicable rate of VAT is 10 percent. VAT is applied only if the person performing services receives a 'service fee.' It would not apply to a typical employment contract.

Transfer pricing

There are currently no transfer pricing rules in the Lao PDR.

Local data privacy requirements

The Lao PDR currently has no data privacy laws.

Exchange controls

Foreign employees may repatriate their earnings after paying Lao PDR taxes.

Non-deductible costs for assignees

Non-deductible costs for assignees include payments without appropriate supporting documentation, or costs that may be deemed to be in nature to relate to entertainment.

Luxembourg

Introduction

Individuals domiciled in Luxembourg are subject to income tax on their worldwide income unless exempt under the provisions of a treaty. Under Luxembourg tax law, the concept of 'domicile' is essentially equivalent to the term 'residence' as used in most jurisdictions. In this article the two terms are used interchangeably.

Non-residents (non-domiciliary) are subject to tax on certain categories of income from Luxembourg sources.

The official currency of Luxembourg is the euro (EUR).

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Key messages

Extended business travelers who are not residents of Luxembourg are likely to be taxed on employment income relating to their Luxembourg work days.

Income tax

Liability to income tax

Individual liability to Luxembourg tax is determined by residence status. A person can be a resident or a non-resident.

An individual will be considered domiciled in Luxembourg for tax purposes if either of the following circumstances is met, subject to tax treaty provisions:

- The individual maintains his or her permanent home in Luxembourg. When an individual's family (spouse and children) resides in Luxembourg, he or she may be considered to have his or her home in Luxembourg, even if he or she is absent from Luxembourg for most of the year. Special rules may, however, apply for married couples where one of the spouses lives abroad.
- The individual has his or her abode in Luxembourg. This circumstance is deemed met if the individual remains in Luxembourg for more than six months in a given calendar year. This is not restricted to six months in the calendar year. If an individual arrives on 1 October in year N and is still staying in the country on 2 April in year N + 1, the six-month stay will be deemed to have been met. The individual will be deemed to have been resident in Luxembourg from 1 October in year N.

Tax trigger points

To consider the start and end dates of residency status, there is no minimum number of days in Luxembourg. The determination is essentially based on facts and circumstances. The assignee is considered to be a Luxembourg tax resident as of the first day he or she arrives in Luxembourg (according to Luxembourg domestic tax rules).

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Luxembourg-sourced income and gains from taxable Luxembourg assets (such as real estate, fringe benefits, broadly non-cash employment). Moreover, Luxembourg does not in principle grant special tax treatment for expatriates.

Tax rates

Net taxable income is taxed at graduated rates ranging from zero percent to 38.95 percent (including a 2.5 percent unemployment contribution). Non-residents are subject to minimum tax rate of 15 percent on their income not subject to withholding tax.

Social security

Liability to social security

In Luxembourg registration with the social security authorities is compulsory for all employees. An exemption from paying Luxembourg social security contributions may be granted under a social security treaty signed by Luxembourg. The benefits cover:

- Old-age pension, disabilities pension, survivors' pension
- Health and medical expenses
- Allowance in cash for children

The employee's part of social security contributions ranges between 12.10 percent and 12.35 percent. The employer's part of social security contributions ranges between 12.14 percent and 19.07 percent. Both are capped.

Compliance obligations

Employee compliance obligations

Tax returns are due by 31 March following the tax year-end, which is 31 December. Tax returns may be required to be filed by non-residents who derive Luxembourg-sourced income under certain conditions.

Employer reporting and withholding requirements

The Luxembourg employer has the legal obligation to withhold the correct amount of tax on salaries paid to employees.

Advance payments of tax, together with tax withheld at source, are deductible from the final income tax liability. Any overpayment of tax is refunded. Tax withheld on wages and pensions is adjusted annually when the tax is not calculated by assessment. If an expatriate establishes his or her residence in Luxembourg during the course of the year, he or she will generally be required to provide the Luxembourg tax authorities with evidence of his or her salary earned during the part of the year he or she was not resident in Luxembourg. The computation of his or her salary for the entire year allows the determination of a possible refund of tax withheld in excess.

The amounts of the prepayments are based on the amount of income tax due for the previous year. The income tax withheld monthly on employment income and pension income is computed according to tax tables set forth by the government.

Other

Work permit/visa requirements

For non-EU citizens, a visa must be applied for before the individual enters Luxembourg. The type of visa required will depend on the purpose of the individual's entry into Luxembourg.

Double taxation treaties

In addition to Luxembourg's domestic arrangements that provide relief from international double taxation, Luxembourg has entered into double taxation treaties with 57 countries to prevent double taxation and allow cooperation between Luxembourg and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has (such as the power to sign contracts on behalf of the employer).

Indirect taxes

Value added tax (VAT) is applicable to transactions and sales. The standard VAT rate applicable in Luxembourg is 15 percent.

Transfer pricing

Luxembourg applies the OECD guidelines in terms of transfer pricing, hence a transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction and no corresponding recharge is done, in other words, if a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Luxembourg has data privacy laws.

Exchange control

Luxembourg does not restrict the flow of European or foreign currency into or out of the country.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Luxembourg pension funds, as well as school fees.

Macau

Introduction

Income tax

All Macau-sourced income is subject to tax. Macau has double tax treaties with China and Portugal. The maximum tax rate is 12 percent, and a 25 percent reduction in Macau Professional Tax (MPT) liability is temporarily allowed.

A person's liability to MPT is determined by the source of his or income earned. Residents and non-residents are generally treated alike for MPT purposes.

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Key messages

Business travelers are taxed on remuneration in respect of services rendered in Macau.

Liability to income tax

MPT is levied on all personal income from employment and professional practices arising in or derived from Macau, regardless of the origin of payment, place of employment, or residency of taxpayers.

Definition of source

For MPT purposes, income will generally be regarded as arising in or derived from Macau if it is received in consideration for services performed in Macau.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Macau. Macau has double tax treaties with mainland China and Portugal. To the extent that an individual qualifies for relief under the dependent personal services article of the applicable double tax treaty, there will be no tax liability in Macau. The treaty exemption will not apply, however, to individuals under certain circumstances, such as where the remuneration is paid by an employer who is a resident of Macau or borne by a permanent establishment that the employer has in Macau.

Types of taxable income

MPT is levied on all service income, including remuneration from work, in cash or benefits-in-kind, fixed or variable and regardless of calculation method or the currency in which it is paid.

Tax rates

The first 120,000 Macau pataca (MOP) of an individual's taxable income is exempt from MPT. Progressive tax rates range from seven percent to 12 percent.

Social security

Compliance obligations

Social security tax (MOP45 per person per month) is applicable in Macau for employees who are local residents or foreign employees working in Macau with visas.

Other

Work permits are required for non-residents working in Macau for more than 45 days within six consecutive months.

Income earned by entities carrying on a business in Macau is subject to tax levied on an individual's remaining taxable income. The maximum tax rate is currently 12 percent on income earned over MOP400,000. Following a special order that has applied since 2004, taxpayers are granted a 25 percent reduction in MPT liabilities.

Liability to social security

Employers are required to make monthly contributions of MOP30 for resident employees and MOP45 for non-resident employees. This is remitted to the Macau Social Security Fund on a quarterly basis.

Employee compliance obligations

In certain circumstances, such as where the employees are receiving remuneration from more than one employer in a year, employees are required to lodge their own tax returns and settle their liabilities personally. In such a case, an individual is required to submit an MPT return no later than February of the following year.

Employer reporting and withholding requirements

An employer has an obligation to deduct MPT from the salary of its employees on a 'pay-as-you-earn' basis. The withheld tax should be remitted together with the quarterly returns to the Macau Finance Services Bureau within 15 days before the end of each quarter (i.e. 15 April, 15 July, 15 October, and 15 January). In addition, employers are obliged to lodge the MPT returns in respect of remuneration and tax withheld for all employees with the Macau Finance Services Bureau before the end of February each year.

Work permit/visa requirements

A non-resident is required to apply for a non-resident working permit in order to work in Macau.

For instructional, technical, quality control, or business supervisory service pursuant to an agreement between a foreign enterprise and a person or legal entity residing in Macau for the provision of certain specific and non-recurrent projects or services, a non-resident working permit is not required if the non-resident stays continuously or intermittently in Macau for work or service for a maximum of 45 days in every six consecutive months.

Double taxation treaties

Macau has entered into double taxation treaties with mainland China and Portugal to prevent double taxation.

Permanent establishment implications

There is no permanent establishment concept in Macau although, income earned by entities carrying out business activities in Macau is subject to Macau Complementary Tax. Accordingly, there is potential for an entity to be considered to be carrying on a business in Macau as a result of its employees' activities in Macau, depending on the nature and extent of the services performed.

Indirect taxes

There is currently no VAT or GST levied in Macau.

Transfer pricing

Macau does not have a transfer pricing regime. The Macau Finance Services Bureau may, however, review related-party transactions to ensure that the transactions are conducted on an arm's-length basis and are commercially justifiable.

Local data privacy requirements

Macau has data privacy laws formulated to protect personal data.

Exchange control

There are currently no exchange control regulations in Macau.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to pension funds that are not approved by the Monetary Authority of Macau.

Malaysia

Introduction

Income tax

Residents and non-residents in Malaysia are taxed on employment income accruing in or derived from Malaysia. Residence status only affects the amount of tax paid.

Income tax in Malaysia is territorial in scope and based on the source principle regardless of the tax residency of the individual in Malaysia. The source of employment income is the place where the employment is exercised.

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Extended business travelers who are in Malaysia for more than 60 days are likely to be taxed on employment income attributable to their Malaysian assignments.

Liability to income tax

Generally, an individual becomes a tax resident for a year of assessment if the aggregate number of days he or she stays in Malaysia during the basis year is 182 days or more. Income derived from Malaysia by residents and non-residents is subject to Malaysian tax irrespective of where the employment contract is made or where the remuneration is paid. Employment income is regarded as Malaysian-derived income if the employment activities are exercised in Malaysia.

Definition of source

Malaysian-sourced income is defined as income accruing in or derived from Malaysia. Employment income is generally treated as Malaysian-sourced compensation where the individual performs the services while physically located in Malaysia.

Tax trigger points

A non-resident individual who exercises employment in Malaysia for not more than 60 days is exempt from Malaysian tax. An individual whose employment period in Malaysia exceeds 60 days would be taxable unless the individual is able to seek exemption from Malaysian tax under the dependent personal services article of the relevant double tax treaty.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and other Malaysian sourced income.

The maximum tax rate will be reduced to 26 percent in 2010.

Social security

Compliance obligations

Tax returns are due by 30 April. It is mandatory for employers to withhold tax and remit this to the Malaysian Inland Revenue Board (MIRB) monthly.

Tax rates

A tax-resident individual would be subject to tax at graduated rates ranging up to 26 percent after the deductions of personal reliefs (such as relief for oneself, dependent spouse, life insurance premiums, medical expenses and so on). The maximum tax rate is currently 26 percent (with effect from year of assessment (YA 2010)) on income earned over 100,000 Malaysian ringgit (MYR) for residents.

A non-tax-resident individual would be taxed at a flat rate of 26 percent (with effect from year of assessment (YA) 2010). Non-tax-residents are not entitled to personal relief deductions.

Liability to social security

The Social Security Organization (SOCSO) is a scheme to provide certain benefits to employees in cases of employment injury including occupational diseases and invalidity and for certain other matters in relation to employment. Employees covered by this scheme are those whose wages do not exceed MYR3,000 per month. The current rates of contribution vary from MYR0.10 to MYR14.75 per month for the employee and from MYR0.40 to RMYR51.65 per month for the employer. Foreign employees are not generally required to contribute to SOCSO as their wages generally exceed MYR3,000 per month. Employees of Malaysian nationality or of permanent residence status are required to be contributors to the Employees Provident Fund (EPF). The employee's and employer's contributions to the EPF are 11 percent (8 percent for 2009 to 2010) and 12 percent, respectively, of the employee's wages. Foreign employees have the option of becoming members of the EPF. The minimum statutory contribution by the foreign employee and employer will be 11 percent (8 percent for 2009 to 2010) of the foreign employees' wages and MYR5, respectively.

Employee compliance obligations

The tax year, commonly called the year of assessment (YA), runs from 1 January to 31 December. Tax returns are required to be lodged by 30 April of the following year., For individuals who derive business income, however, the filing deadline is extended to 30 June of the following year.

Employer reporting and withholding requirements

Tax withholdings from employment income are covered by the monthly tax deductions (MTD) system. Under the MTD system, it is mandatory for an employer to deduct tax from an employee's monthly cash remuneration (whether it is paid in Malaysia or outside Malaysia) and perquisites of each of the employees, based on the MTD schedule issued by the Malaysian Inland Revenue Board (MIRB). The tax deducted during a calendar month has to be remitted to the MIRB not later than the 10th day of the following calendar month via the Statement of Tax Deduction by an Employer (Form CP39). Employees may submit certain completed prescribed forms to elect for claim of deduction and rebates in the relevant months or to include benefits-in-kind (BIK) and value of living accommodation (VOLA) as part of the monthly remuneration to be subject to MTD. Both elections are subject to the approval of the employer.

It should also be noted that the MTD applicable to an employee who is not resident or not known to be resident, shall be at the rate of 26 percent of his or her cash remuneration and perquisites.

Others

Employer's obligations

An employer is required to notify the MIRB via Form CP22 of the commencement of employment of its employees in Malaysia within one month of the date of commencement of employment

An employer would need to declare the total remuneration of his employees relating to employment exercised in Malaysia in the Form E and Form EA respectively. This is regardless of whether the employee's salary and/or allowance is paid in or outside Malaysia.

An employer is also required to notify the MIRB of the cessation of employment of an employee who is chargeable to tax. In the case of an expatriate employee, the notification is required when the expatriate's assignment in Malaysia ends or he ceases employment in Malaysia. The notification (via Form CP21) has to be submitted to the MIRB not less than one month before the expected date of departure or date of cessation of employment of the expatriate, whichever is earlier.

Work permit/visa requirements

An individual entering Malaysia may or may not require a visa depending on the citizenship of the individual. The type of work permit required will depend on the purpose of the individual's entry into Malaysia.

Double taxation treaties

Malaysia has entered into double tax treaties with 70 countries, of which three tax treaties have yet to be entered into force. The treaties prevent double taxation and allow cooperation between Malaysia and overseas tax authorities in enforcing their respective tax laws. Qualification for treaty relief is not automatic. An application has to be made to the MIRB by providing proof that an individual is able to qualify for tax exemption under treaty relief.

Permanent establishment implications

A permanent establishment could potentially be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

A 5 percent service tax is chargeable on the value of taxable services provided by a taxable person. The tax applies throughout Malaysia except for Langkawi, Labuan, Tioman, the Joint Development Area (JDA) and Free Zones.

The Government has recently announced the implementation of Goods and Services Tax (GST). It may be implemented in middle or last quarter of 2011. The GST, at an indicative rate of 4 percent, is set to replace the current sales tax and service tax regime.

Transfer pricing

Malaysia has a transfer pricing regime. Transfer pricing and tax implications could arise where an employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Malaysia currently does not have data privacy laws.

Exchange control

The present exchange control regime applies uniformly to transactions with all countries except Israel, against which special restrictive rules apply.

Non-deductible costs for assignees

Employment costs are generally deductible to the employer, except for certain prohibited costs such as those in relation to overseas leave passage and employer's contribution to pension/provident fund which is not approved by the MIRB. Such costs are non-deductible for the employer.

Mexico

Introduction

A person's liability to Mexican tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Mexican work days.

Income tax

Liability to income tax

A person's liability to Mexican tax is determined by his or her residence status. A person can be a resident or a non-resident for Mexican tax purposes.

A resident is taxed on worldwide income. According to the Mexican Tax Code, an individual should be considered resident for Mexican tax purposes if he or she establishes his or her home in Mexico. In case the individual also has a home in another country, the individual will be a tax resident in Mexico if his or her center of vital interests is in Mexico. It is considered that the individual has his or her center of vital interests in Mexico in either of the following cases, among others:

- When more than 50 percent of the individual's total income received during the calendar year is derived from Mexican sources; or
- When the individual's main center of professional activities is located in Mexico.

On the other hand, the Mexican fiscal code states that in the absence of proof to the contrary, individuals of Mexican nationality are presumed to be residents of Mexico.

Additionally, individuals of Mexican nationality should retain their status as tax residents of Mexico when proving their tax residency in a country with a preferential tax regime for the year in which the notice of termination of tax residence is filed and for the following three years. It is important to mention that this provision is not applicable in those instances where Mexico has executed an unlimited exchange of information agreement with a preferential tax regime country.

Non-residents are taxed only on Mexican-sourced income. Mexican tax legislation establishes that income derived from an employment relationship should be considered as Mexican-sourced income when the associated personal services are rendered in Mexico.

Extended business travelers are likely to be considered non-resident of Mexico for tax purposes unless they:

- Establish a home in Mexico and do not maintain a home in another location; or
- Establish a home in Mexico and maintain a home in another location but have their center of vital interest, as described above, in Mexico.

Definition of source

Employment income is generally treated as Mexican-sourced compensation where the individual performs the services while physically located in Mexico.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Mexico since, as explained above, a person's liability to Mexican tax is determined by his or her residence status. Once it is determined that the individual is a non-resident for Mexican tax purposes, however, the individual could be fully exempt from Mexican taxation as long as:

- The salary is paid by a non-resident who does not have a permanent establishment (PE) in Mexico, or in the case that he or she does, when the service is not related to said PE;
- The employee in is present in Mexico for less than 183 calendar days, whether consecutive or not, in a period of 12 months;
- The payer of the salary does not have an establishment within Mexican territory to which the service is related. The exemption will not be applicable if the payer has an establishment in Mexico even if such establishment does not constitute a PE for Mexican tax purposes; or
- The non-resident employee does not receive complementary payments from non-residents in consideration of services rendered for which salary income was obtained.

Additionally, to the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Mexican entity is his or her economic employer and, as such, bears the cost of the individual's compensation.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Mexican-sourced income and gains from sale or leasing of taxable Mexican assets (such as real estate).

Tax rates

For 2010 residents, taxable income is taxed at graduated rates ranging from 1.92 percent to 30 percent. The maximum marginal tax rate is reached on income earned over 32,736.84 Mexican pesos (MXN) in the case of residents.

Non-resident income tax should be determined by applying the following rates to the income received and derived from Mexican-sourced income:

Annual income from MXN	Annual income to MXN	Tax rate percent
0	125,900	Exempt
125,901	1,000,000	15
1,000,001	And above	30

Source: KPMG in Mexico June 2010

When the income in question is received in a 12-month period and such period does not coincide with the calendar year, the above rates should be applied as a function of the 12-month period.

Social security

Liability to social security

Foreigners who work for Mexican employers are subject to Mexican social security contributions when an employment relationship is deemed to exist in Mexico. Such relationship is deemed to exist in Mexico when the employee's activities are supervised, controlled, or governed by a Mexican employer. These are based on several components where the capped salary is 25 times the minimum wage of Mexico City (2010 the minimum wage is MXN57.46 per day).

The aforementioned contributions are calculated based on the following percentages, and subject to the capped salary:

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
Social Security (IMSS)*	9.93 – 24.43	2.73	12.66 – 27.16
Retirement Fund (SAR)	2.00	0.00	2.00
Housing Fund (INFONAVIT)	5.00	0.00	5.00
Total Percent	16.93 – 3 1.43	2.73	19.66 – 34.16

Source: KPMG in Mexico June 2010

** The above rates represent the effective rates for individuals with a capped salary. The employer contribution will depend on each employer's risk classification.*

Mexico has entered into a formal duly signed social security totalization agreements with two countries: Spain and Canada.

There are no provisions for foreign employees working in Mexico under a contract with a foreign employer and with no Mexican employer. In such cases, although the employee could be deemed to be subject to Mexican social security contributions, it may be argued that there would be no basis to calculate such contributions (no salary borne in Mexico) and no vehicle to remit them (no Mexican employer). Thus, Mexican social security contributions would not be applicable under this approach.

Compliance obligations

Employee compliance obligations

Tax returns are due by 30 April following the tax year-end, which is 31 December. Extensions are not permitted. Non-residents are not obligated to file a Mexican annual tax return since the payments made are considered as final or definitive.

Employer reporting and withholding requirements

Mexican income taxes are paid on earned income, Pay As You Earn (PAYE).

Individuals are required to remit tax payments on compensation, as follows:

- When compensation is paid by Mexico or from abroad, but the cost of the individual's compensation is charged back to a Mexican entity under a secondment agreement and, as such, reflected on the Mexican payroll, the tax obligation will be satisfied via tax withholdings. Under this scenario, the Mexican employer will determine the individual's monthly tax liability and remit the corresponding taxes to the Mexican tax authorities.
- When compensation is paid from abroad, and the cost of the individual's compensation is not charged back to a Mexican entity and, as such, not reflected on the Mexican payroll, the individual will be required to file personal tax returns through the internet by wiring the tax amount due from his or her personal Mexican bank account.

Monthly personal tax returns and withholdings are due by the 17th day of the month following that in which the compensation was paid. Non-resident tax returns should be paid within 15 days following the receipt of the income, unless a Mexican entity is obligated to withhold the tax or one of the abovementioned options is used, in which the due date will be the 17th day of the month following in which the compensation was received.

Notwithstanding the above, it is important to mention that income taxes associated with salary income received by non-resident individuals can also be paid via one of the following payment alternatives:

- The foreign employer withholds the Mexican tax and remits to the tax authorities. It is important to mention that this would require the foreign entity to be formally registered in Mexico as a withholding agent;
- The Mexican entity where the services are being rendered collects and makes the tax payments; or
- A nominated and jointly liable Mexican representative makes the payments.

Other

Work permit/visa requirements

Foreigners who are paid from abroad can enter into Mexico with a Multiple Migratory Form (FMM); this is the necessary paperwork and is provided at the port of entry. Foreigners with restricted and strictly restricted nationalities must apply for a visa in advance.

If the foreigner's residence in Mexico will last for more than six months, he or she has five days to request the redemption of his or her FMM in return for a non-immigrant card. This should be done by submitting the following documentation at the local migratory office nearest to his or her place of residence:

- Passport
- Payment of fees
- Completed form
- Five passport-sized photographs
- Original of the FMM

If the foreigner is paid by a Mexican entity, or a mirror payroll is established by a Mexican entity, he or she should apply for an FM3 at the Instituto Nacional de Migración (INM) with the following documentation:

- A letter of invitation, written in Spanish, from a corporation, association or chamber of Mexican business, which expresses the purpose of the visit, the estimated period of stay abroad and confirmed economic ability to bear all expenses in Mexico.

An FM3 is valid for a one-year period, and it may be extended up to four additional years. An immigrant visa (FM2) is granted after holding an FM3 for five years.

Foreigners must obtain approval from the INM to engage in different activities from the ones they have been expressly authorized. Also, they must notify the INM of any changes to their immigration status or situation.

Double taxation treaties

In addition to Mexico's domestic arrangements that provide relief from international double taxation, Mexico has entered into double taxation treaties with approximately 38 countries to prevent double taxation and allow cooperation between Mexico and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment (PE) could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has to bind the foreign entity in Mexico.

Indirect taxes

Value-Added Tax (VAT)

The standard rate of VAT is 16 percent.

The Mexican Value-Added Tax Law (LIVA) establishes that VAT is due on the following activities carried out in Mexican territory:

- Sales
- Rendering of independent services
- Imports of good or services
- Leasing

Mexican Entities

All individuals and entities engaging in acts or activities in Mexico consisting of alienation of assets, rendering of independent services, granting of temporary use or advantage of assets, and import of goods or services must register for VAT purposes. This tax is paid on a cash flow basis.

Non-Mexican Entities

Non-Mexican entities that have established a Mexican PE have the obligation to register with the Mexican tax authorities; consequently, they are compelled to comply with all Mexican tax obligations, including VAT obligations.

Non-Mexican entities that engage in sales or leasing activities in national territory subject to VAT will be subject to withholding for the corresponding VAT amount by the Mexican taxpayer.

Flat Rate Business Tax (IETU)

This is a new tax in force as of 1 January 2008 that is paid on a cash flow basis and is imposed on Mexican tax residents or non-residents with a PE in Mexico who receive income from independent and professional services, sale of goods, and rental income. The tax rate is 16.5 percent for 2008, 17 percent for 2009, and 17.5 percent starting 2010.

The IETU is a minimum tax. It must be computed and compared to the income tax. In the event the IETU is higher than the income tax, a credit procedure has been established where only the excess IETU over the income tax is paid.

A foreign entity, non-resident for Mexican tax purposes, that provides and receives payments for its services, will not be subject to IETU as long as such entity does not constitute a PE in Mexico and/or the services rendered are not related to such PE.

On the other hand, the IETU law allows certain deductions provided that they are related to the taxpayer's business activities. The IETU law does not, however, allow salary deduction from the taxable income.

Although the salaries paid are not a deductible item allowed by the IETU law, such law also establishes a tax credit with respect to said salaries that is applicable against the IETU due for the same year., Such credit cannot, however, be applicable in future tax years if any remaining balance exists.

Transfer pricing

Mexico has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed. Mexico's rules are similar to the OECD guidelines.

Management fees are generally deductible if they are necessary to carry out the business activities in Mexico, they are not a duplicate of services already obtained or provided in Mexico, and they are agreed at arm's-length prices.

Withholding will not be required on the management fees if the service is provided outside Mexico or if the service is provided by a tax resident of a treaty country (taxed as business profits). Otherwise, a 25 percent withholding rate will be applied to those services performed in Mexico. Additional information can be found in Articles 260 and 276 of the Income Tax Law Regulations, various tax provisions for Maquiladora companies, and numerous Income Tax Law Articles (e.g. Articles 2, 31, 32, 86, 92, 106, 133, 172, 173, 179–210, 215–217).

Local data privacy requirements

Although Mexico does not have a comprehensive data protection law, there are more than 34 laws, including the constitution of 1917, that provide various protections. There have been more than six data privacy bills that have been proposed in the Mexican congress. The bills before congress are loosely based upon the OECD guidelines on the protection of privacy and trans-border flows of personal data.

Exchange control

Mexico does not restrict the flow of Mexican or foreign currency into or out of the country.

Non-deductible costs for assignees

Non-deductible costs for assignees may partially include contributions by an employee and employer to non-Mexican pension funds.

Mongolia

Introduction

Income tax

Residents are taxed on worldwide income whereas non-residents are generally taxed on Mongolian-sourced income only.

A person's liability to Mongolian tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her.

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Liability to income tax

A person's liability to Mongolian tax is determined by his or her residence status. A person can be a resident or non-resident for Mongolian tax purposes.

A resident of Mongolia generally refers to an individual who resides in Mongolia, an individual who resides in Mongolia for 183 days or more in a tax year, or a civil servant of Mongolia appointed to work overseas.

The 183 days or more period criterion is based on the number of days in a calendar year for which an individual is present in Mongolia, from the day of entry. In the case of multiple entries into Mongolia, it is determined based on the total number of days for which the individual is present in Mongolia.

A foreign national appointed at a foreign diplomatic mission, consulate, the United Nations, and their branches and his or her family members who reside in Mongolia are not considered to be residents of Mongolia for income tax purposes.

An individual who has no place of residence in Mongolia and has not resided in Mongolia for 183 days or more in a tax year is considered to be a non-resident taxpayer.

An individual who is a resident of Mongolia is assessable on his or her worldwide income whereas a non-resident is assessable on income derived directly or indirectly from sources in Mongolia.

Definition of source

Employment income is generally treated as Mongolian-sourced compensation where the individual performs the services while physically located in Mongolia.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Mongolia.

To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Mongolian entity is the employee's economic employer.

Types of taxable income

The following income of a taxpayer earned in a tax year shall be subject to tax: salary; wage; bonus; incentive; income from activities; income from properties; income from sale of properties; income of a herdsman (family and/or individual with livestock); income from creation of scientific; literary, and artistic works; invention, product design and useful design; organizing and participating in sports competition; art performance; income from quiz, gambling and lottery winnings; and fringe benefits.

Tax rates

Net taxable income is generally taxed at a flat rate of 10 percent. There are, however, exceptions to this, whereby different percentages are charged for different types of income, including:

- Income from immovable property, which is taxed at 2 percent;
- Income from scientific, literary, and art work and remuneration from sports competition, which is taxed at 5 percent; and
- Income from laying a wager or lottery winnings, which is taxed at 40 percent.

Liability to social security

Mongolia has an extensive social security system that covers benefits relating to retirement, loss of ability to work, sickness, unemployment and death.

Both employees and employers are required to make social security contributions. The current rate of contribution is capped at 10 percent of the employee's salary or 108,000 Mongolian tugrik (MNT) (whichever is lower) for employees. Employers are required to contribute 11 to 13 percent of an employee's salary. The two major components of social security contributions are social insurance and health insurance.

Social insurance premiums are paid on a monthly basis. Employers are required to withhold social insurance premiums owed by employees from their salaries and remit this to the insurance authority. The monthly premiums paid by employees and employers are required to be paid by the 5th of the following month.

Employee compliance obligations

Individual tax forms must be submitted to the tax authority by 15 February following the tax year-end, which is 31 December.

Other Visa/work permits require a letter of invitation from a Mongolian company.

Employer reporting and withholding requirements

Employers are required to withhold income tax from their employees and submit a 'quarter-to-date' report of tax withheld by the 20th of the first month of the following quarter and also submit a year-to-date tax report by 15 February of the following year to the tax authority.

Work permit/visa requirements

Depending on the individual's nationality, a visa/work permit is usually required for an individual to enter Mongolia. A letter of invitation from a locally incorporated company in Mongolia must be sent to a Mongolian Embassy at the individual's location at the time of application prior to the approval of the application for a Mongolian visa.

Double taxation treaties

In addition to Mongolia's domestic arrangements that provide relief from international double taxation, Mongolia has entered into double taxation treaties with 29 countries to prevent double taxation and allow cooperation between Mongolia and overseas tax authorities in enforcing their respective tax laws. Among the countries with which Mongolia has a double taxation treaty are China, France, Germany, Italy, Malaysia, the Netherlands, the Republic of Korea, the Russian Federation, Singapore, Switzerland, and the United Kingdom.

Permanent establishment implications

A permanent establishment could potentially be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT of 10 percent applies to a legal entity with sales revenues of goods sold, work performed, or services provided in the territory of Mongolia of MNT10 million or more. A person or legal entity may register voluntarily as a value-added taxpayer where certain conditions are met.

Transfer pricing

Mongolia has a transfer pricing regime for legal entities in Mongolia whereby related-party transactions below or above fair market value can be subjected to the tax authority's review to determine any required gross taxable income adjustments.

Local data privacy requirements

Mongolia has data privacy laws.

Exchange control

Mongolia currently has no foreign exchange control regulations.

Montenegro

Introduction

Montenegrin Law does not recognize the term 'extended business traveler'. A person's liability to Montenegrin tax is determined by his or her tax residence status and the source of income derived by him or her.

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Key messages

Extended business travelers will be liable to tax primarily on their employment income related to work performed in Montenegro if they are present in Montenegro more than 183 days in a calendar year.

Income tax

Liability to income tax

A person's liability to Montenegrin tax is determined by his or her residence status or source of income.

A Montenegrin tax resident is an individual who spends more than 183 days in a calendar year in Montenegro, if he or she has a residence in Montenegro, or if his or her center of business and vital interest is in the territory of Montenegro. Montenegrin tax residents are residents for the entire calendar year.

Montenegrin-sourced income is income generated from business activities performed in a fixed place of business located in Montenegro, interest, and income from the rental of immovable property located in Montenegro.

A Montenegrin tax resident is assessable on his/her worldwide income. The personal income tax paid in another country can be claimed as tax credit.

Tax trigger points

There is no trigger point for taxation in Montenegro. For all business trips/ assignments that last for more than 183 days in a calendar year, that is when foreigners become Montenegrin tax resident, income tax must be paid by filing annual tax return.

Types of taxable income

Tax residents are assessable on Montenegrin-sourced income (employment income, self-employment income, income from property and property rights, income from capital) and their worldwide income, whereas non-residents are assessable only on income from Montenegrin sources.

Tax rates

In 2009, Montenegro applied 12 percent flat tax rate on all types of income. From 2010 this rate will be decreased to 9 percent.

Social security

Liability to social security

According to Montenegrin social security legislation, all foreigners assigned to Montenegro are obliged to pay mandatory social security contributions, unless such payments are secured in their home country or otherwise prescribed by the social security convention between Montenegro and their home country.

Compliance obligations

Employee compliance obligations

Individuals who are performing work in Montenegro for a period longer than 183 days in a calendar year, and whose employer is not resident in Montenegro, are obliged to file a tax return and pay income tax themselves on receiving the income for work performed in Montenegro. However, since the government of Montenegro has not yet prescribed a form of tax return for income received from abroad, income tax is paid annually. Individuals who become Montenegrin tax residents, therefore, must pay tax by filing an annual tax return. The annual tax return must be filed and tax must be paid by 30 April of the current year for the previous calendar year.

Other

Work permit/visa requirements

Generally before to coming to Montenegro, a visa must be obtained. If an individual intends to stay in Montenegro less than 90 days, a short-term visa is necessary. However, in practice this visa is not required for citizens of most European countries. On the other hand, if an individual intends to work in Montenegro for more than 90 days in a six-month period, he or she is required to obtain a work permit and temporary residence permit prior to commencing any work. In addition, the government of Montenegro has introduced quotas, limiting the number of work permits issued per year, but this limitation is not applied to certain categories of assignees (managers, specialists) assigned to Montenegro.

Double taxation treaties

Montenegro has entered into double taxation treaties with 38 (mostly European) countries to prevent double taxation and allow cooperation between Montenegro and tax authorities in other countries in enforcing their respective tax laws.

Permanent establishment implications

There is potential risk that an extended business traveler may create a permanent establishment if he or she has a fixed place of business in Montenegro for a period longer than 183 days, depending on the level of authority the employee has.

Indirect taxes

The general VAT rate for the taxable supply of goods and service and import of goods is 17 percent, whereas the reduced tax rate is 7 percent. VAT registration is required for individuals who independently perform business activities.

Transfer pricing

Montenegrin law has basic provisions regarding transfer pricing, although Montenegrin tax authorities do not have developed transfer pricing practices.

Local data privacy requirements

Montenegro has data privacy laws.

Exchange control

Montenegrin legislation does not restrict the flow of currencies into and out of the country. Individuals (both resident and non-resident) may freely bring in unlimited amounts of foreign currency, but any amount exceeding EUR2,000 must be reported to the Customs Authority. Due to anti-money laundry regulations all financial transactions in exceeding EUR15,000 must be reported to the authorities, as well as all cash transactions over EUR15,000.

Non-deductible costs for assignees

In Montenegro, when calculating their annual tax, residents may claim a personal deduction in the amount of EUR840 for the year 2009.

As of 2010, personal deduction in the amount of EUR840 is abolished.

Netherlands

Introduction

An individual's liability to Dutch personal income tax is determined by his or her residency status for taxation purposes and the source of income derived by him or her. Personal income tax is levied at graduated rates on an individual's taxable income for the calendar year, which is calculated by subtracting allowable deductions from the total assessable income.

Extended business travelers can be taxed on employment income relating to their Dutch work days. Dutch personal income tax can be triggered from the first day of arrival in the Netherlands since the Netherlands has adopted the economic employer approach in interpreting the term employer in the dependent personal services paragraph in the tax treaties.

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Income tax

Liability to income tax

An individual's liability to Dutch personal income tax is determined by his or her residence status. A person can be a resident or a non-resident for Dutch tax purposes. Residency is determined by applying a closer connection test, in other words a taxpayer is considered as a resident if the center of his or her vital interest is in the Netherlands, and if the closest social and economic ties the taxpayer has are with the Netherlands. Physical presence itself is not decisive. Business travelers will probably not be considered as resident for Dutch tax purposes.

The general rule is that a person who is a resident of the Netherlands is assessable on his or her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from Dutch sources.

Employment income is treated as Dutch-sourced income to the extent attributable to duties physically performed in the Netherlands.

Tax trigger points

In most tax treaties, the dependent personal services article states that the employee will be taxed in his or her home country if the employee's stay in the Netherlands does not exceed 183 days (in a calendar year or a 12-month period). Other conditions are that the salary is not paid by or on behalf of a Dutch employer during that period, and that the employment costs are not borne by the foreign employer's Dutch permanent establishment during the period of assignment. Because the Netherlands has adopted the economic employer approach in interpreting the term employer, the employee could be taxable from his or her first day of presence in the Netherlands.

According to the Supreme Court's ruling, for the application of the tax treaty, the employer is the company that:

- Has the authority to instruct the assignee
- Bears the risk and expense of the duties performed, including a specific and individually traceable recharge of the employment expenses

There is, in principle, no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in the Netherlands. An exception is made for employees of foreign companies who are assigned to the Netherlands within an international group as part of an exchange program, for career development, or on the grounds of specific expertise. They are exempt from Dutch income tax on their employment income if they work in the Netherlands for a period of no longer than 60 days in any twelve-month period. The exemption does not apply if the Netherlands has the right of taxation based on the dependent personal services article of the tax treaty (for example when the employee has stayed more than 183 days in the Netherlands or when the employee's remuneration is attributable to a permanent establishment of the employer in the Netherlands).

To the extent that the individual qualifies for relief in terms of the Dependent Personal Services article of the applicable double tax treaty, there will be no tax liability.

Types of taxable income

For extended non-resident business travelers, only employment income attributable to Dutch duties is generally subject to Dutch income tax.

Extraterritorial costs, i.e. incremental expenses effectively connected with the performance of employment duties in the Netherlands, may be reimbursed tax-free.

A Dutch expatriate concession, the '30 percent-ruling', might be applicable depending on the circumstances of the assignment.

Tax rates

Taxable income is subject to graduated tax rates ranging from 33.5 percent to 52 percent for both residents and non-residents.

Net taxable income (EUR)	Income Tax (percent)	National insurance (percent)	Total (percent)
0 – 18,218	2.30	31.15	33.45
18.218 – 32.738	10.80	31.15	41.95
32.738 – 54.367	42.00	Nil	42.00
54.367 – higher	52.00	Nil	52.00

Source: KPMG in The Netherlands June 2010

If the extended business traveler is not covered by Dutch social security, for taxable income up to EUR32.738, the tax rates are 2.30 percent and 10.80 percent depending on the income level.

Social security

Liability to social security

The Dutch social security system comprises the National Insurance programs, the national health care insurance and the Employee Insurance programs. Extended non-resident business travelers generally are subject to Dutch social security tax under domestic legislation, but may be exempt under application of EU-rules or bilateral totalization agreements. A certificate of coverage is then required.

Compliance obligations

Employee compliance

Tax returns are due by 1 April following the tax year-end, which is 31 December. Where a tax agent is used, in most cases an extension is available. Tax returns are required to be filed by non-residents who earn Dutch-sourced income and are therefore liable to pay Dutch income tax.

Employer reporting and withholding

If an extended business traveler's employment income is subject to Dutch income tax, the payer has a withholding obligation.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters the Netherlands, unless the traveler is an EU citizen. The type of visa required will depend on the purpose of the individual's entry into the Netherlands.

Double taxation treaties

The Netherlands has concluded tax treaties with more than 85 countries.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has. When the foreign employer has a permanent establishment in the Netherlands, then the employee is subject to Dutch income tax if the remuneration is attributable to the permanent establishment. In this respect it is not relevant whether the costs are actually borne or not by the permanent establishment.

Indirect taxes

The Netherlands has adopted the (pan-European) VAT system. Goods and services will trigger a VAT tax rate of zero percent, 6 percent or 19 percent. Special rules apply if services or goods are provided or shipped internationally.

Transfer pricing

The Netherlands has a transfer pricing regime. A transfer pricing issue could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

The Netherlands has data privacy laws.

Exchange control

The Netherlands does not restrict the flow of the Euro or other currency into or out of the country, although certain reporting obligations are imposed to control tax evasion and money laundering.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Dutch pension funds. There are several possibilities to obtain deductibility (such as a corresponding approval procedure) and contributions can be deductible for a period of 60 months.

New Zealand

Introduction

Individuals are subject to income tax on their worldwide income while they are tax-resident in New Zealand.

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Extended business travelers are likely to be taxed on employment income relating to their New Zealand work days, unless relief is obtained under New Zealand domestic legislation or an applicable double tax agreement.

Income tax

Income tax is imposed on income derived by individuals at marginal tax rates that are set each year.

Residents are taxed on worldwide income. Transitional residents are taxed on their New Zealand-sourced income, and any employment income derived overseas. Non-residents are taxed on their New Zealand-sourced income only.

Benefits in kind are subject to fringe benefits tax, which is imposed on the employer.

Liability to income tax

A person's liability for New Zealand tax is determined by his or her residence status. A person can be a resident, a transitional resident, or a non-resident for tax purposes.

A resident of New Zealand generally refers to an individual who is present in New Zealand for more than 183 days in any 12-month period, or who has a permanent place of abode in New Zealand.

A transitional resident is a new tax resident of New Zealand who has been non-resident for 10 years prior to arriving in, or returning to, New Zealand.

A non-resident of New Zealand is generally someone who spends less than 183 days in any 12-month period in New Zealand, and does not have a permanent place of abode in New Zealand. The general rule is that a person who is a resident of New Zealand is assessable on worldwide income.

Non-residents and transitional residents are generally assessable on income derived directly or indirectly from sources in New Zealand.

Transitional residents are also taxable on foreign-sourced employment income.

Extended business travelers are likely to be considered non-residents of New Zealand for tax purposes depending on their personal circumstances.

Definition of source

Employment income is generally treated as New Zealand-sourced compensation where the individual performs the services while physically located in New Zealand.

Tax trigger points

Employment income derived in New Zealand may not be taxable if the employee is present in New Zealand for less than 92 days in a tax year, performing services on behalf of a person who is not resident in New Zealand, and the income derived is taxed in the country in which the person is resident.

Double tax treaty relief

Relief from New Zealand taxation may also be available under a double tax agreement. Generally, New Zealand's double tax agreements provide relief from tax on employment income if the employee is present in New Zealand for less than 183 days, is employed by a non-resident entity, and the remuneration is not borne by a permanent establishment in New Zealand.

Types of taxable income

For extended business travelers who are non-residents of New Zealand, and do not qualify for the above exemptions or relief, the income that is generally taxed in New Zealand includes remuneration for New Zealand-based employment and New Zealand-sourced income such as interest or dividends from New Zealand companies.

Fringe benefits, broadly non-cash employment income, are subject to fringe benefits tax, which is levied on the employer.

Employee compliance obligations

An income tax return is required for each tax year (1 April to 31 March).

Tax returns are required to be filed by non-residents who derive any New Zealand-sourced income (other than New Zealand dividend, interest income, or royalties, which are subject to final withholding tax).

Tax returns are due by 7 July following the tax year-end. Tax agents can obtain an extension to the following 31 March.

Employer reporting and withholding requirements

PAYE Withholding from Remuneration

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable in respect of employment income, the payer has a PAYE withholding requirement. This could include situations where an employer is non-resident and no exemptions or relief applies, such as the 92-day and 183-day exemptions.

Non-Resident Contractor's Withholding Tax (NRCWT) on contract payments

A non-resident employer may be considered a non-resident contractor where any employee who is present in New Zealand for more than 92 days in a tax year is performing services on behalf of the non-resident employer for another entity in New Zealand, and payments are made by the New Zealand entity to the non-resident employer in respect of those services.

Such payments may be subject to a withholding tax known as non-resident contractor's withholding tax, unless an exemption certificate is held by the non-resident entity.

An exemption certificate may be issued by the Internal Revenue Department (IRD) to remove this withholding obligation if the IRD is satisfied that, for the income sourced in New Zealand, there is no income tax liability pursuant to a double tax treaty.

Social Security

Liability to social security

New Zealand has a social security system funded through income taxes. This scheme offers a number of benefits and is aimed at assisting people.

Accident compensation is another benefit under the welfare system and this is funded primarily by employers and employees. The employer levy is determined by its industry classification, while the employee levy is charged at a flat rate.

The rates for the employee levy are:

- 1.7 percent on earnings up to106,473 New Zealand dollars (NZD) for the 2010 tax year
- 2.0 percent on earnings up to NZD110,018 for the 2011 tax year

Superannuation contributions

There is no compulsory superannuation saving in New Zealand. There is, however, a Government-run voluntary workplace savings scheme called KiwiSaver, which is available to any resident employers, employers who carry on business from a fixed establishment in New Zealand, or non-resident employers who elect into the regime. Compulsory employer contributions are currently fixed at two percent of gross income.

Other

Work permit/visa requirements

A visa may need to be applied for before an individual can enter New Zealand, depending on which country the individual is from. A work visa or work permit may need to be obtained before an individual is able to work in New Zealand.

Double taxation treaties

In addition to New Zealand's domestic arrangements that provide relief from international double taxation, New Zealand has entered into double taxation treaties with 35 countries to prevent double taxation and allow cooperation between New Zealand and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed, the functions and level of authority of the employee, and the specific terms of any applicable double tax treaty.

Indirect taxes

Goods and Services Tax (GST) is applicable at 12.5 percent in respect of taxable supplies. GST registration may, in some circumstances, be required.

Transfer pricing

New Zealand has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

New Zealand has data privacy laws.

Non-deductible costs for assignees

A person is declined a deduction for an amount of expenditure or loss to the extent to which it is incurred in deriving income from employment. Some expenditure can be reimbursed tax-free. Generally, it is necessary to demonstrate that the expenditure being reimbursed was additional expenditure resulting from employment duties, or is of the type that Inland Revenue has prescribed as relocation expenses.

Norway

Introduction

A person's Norwegian tax liability is determined by his or her residence status for taxation purposes and the source of his or her income. Income tax is levied at a progressive rate on the individual's taxable income for the calendar year, which is calculated by subtracting the allowable deductions from the total assessable income.

Extended business travelers are likely to be taxed on employment income relating to their Norwegian work days.

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Income tax

Liability to income tax

A person's liability to Norwegian income tax is determined by his or her residence status. A person can be a resident or a non-resident for Norwegian tax purposes. For Norwegian tax purposes the term 'resident' generally refers to an individual who enters Norway with the intention of remaining there for more than six months (or actually spends more than six months in Norway).

A non-resident of Norway is generally someone who spends less than 183 days in Norway in any 12-month period. If the individual has one or more stays in Norway exceeding 270 days in any 36-month period, he or she will be regarded as resident from the income year for which the requirement is fulfilled.

The general rule is that a person who is a resident of Norway is assessable on his or her worldwide income.

Non-residents are generally assessable on income derived directly or indirectly from sources in Norway. Extended business travelers are likely to be considered non-resident of Norway for tax purposes, unless they enter into Norway with the intention of remaining in Norway for more than six months.

Employment income is generally treated as Norwegian-sourced when the individual performs the services while physically located in Norway.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file a Norwegian tax return, nor pay tax in Norway. To the extent that the individual qualifies in accordance with the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if a Norwegian entity is the individual's economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and benefits in kind from the employer, Norwegian-sourced income and gains from taxable Norwegian assets (such as real estate).

Tax rates

The gross salary income is taxed at the marginal income tax rate of 12 percent. Net taxable income is taxed at a flat rate of 28 percent. The marginal income tax rate is therefore 40 percent. The rates apply for both resident and non-resident taxpayers.

Social security

Liability to social security

Employees performing work in Norway will be mandatory members of the Norwegian Social Security Scheme, and thereby obliged to pay social security tax of 7.8 percent of gross income. The employer is obliged to pay 14.1 percent. The employer's part of Norwegian social security contribution is lower than 14.1 percent if the employee has performed work in certain geographical areas in Norway. The rates are applicable without any ceiling.

An exemption from the Norwegian Scheme may be obtained if there is a totalization agreement between Norway and the home country. This applies both for residents as well as non-residents.

Compliance obligations

Employee compliance obligations

The tax year is the same as the calendar year.

Tax returns are due by 30 April following the tax year-end for both residents and non-residents. A one-month extension may in some cases be granted.

Tax returns are required to be filed by non-residents who receive any Norwegian-sourced income (except for Norwegian dividend income, which may be subject to final withholding tax, as well as interest income and royalties).

Employer reporting and withholding requirements

An employer, regardless of whether Norwegian or foreign, has a bi-monthly reporting obligation as well as withholding obligations related to income earned while performing work in Norway.

In addition, employers may be liable to payroll tax (social security tax of 14.1 percent).

Other

Work permit/visa requirements

Employees from certain countries must apply for a visa before the individual enters into Norway. The type of visa required will depend on the purpose of the individual's entry into Norway.

Double taxation treaties

In addition to the Norwegian domestic regulations, Norway has entered into double taxation treaties with more than 80 countries in order to prevent double taxation, and allowing cooperation between Norway and overseas tax authorities when it comes to enforcing their respective tax laws.

Permanent establishment implications

There is a risk that a permanent establishment could be created as a result of extended business travel to Norway, depending on the type of services performed and the level of authority the employee has when performing services in Norway.

Indirect taxes

Value Added Tax (VAT) is applicable at 25 percent in respect of goods and services. Reduced rates apply for groceries and transportation.

Transfer pricing

Norway has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Norway has data privacy laws.

Exchange control

Norway does not restrict the flow of Norwegian or foreign currency into or out of the country. Certain reporting obligations are, however, imposed to control tax evasion and money laundering. Legislation requires financial institutions and other cash dealers to give notification of cash transactions above 25,000 Norwegian krone (NOK), as well as suspicious cash transactions and certain international telegraphic or other electronic fund transfers (there is no minimum amount). All currency transfers (in Norwegian or foreign currency) made by any person into or out of Norway of NOK25,000 or more in value must be reported.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Norwegian pension funds.

Panama

Introduction

All individuals in Panama, including citizens, residents, and non-residents, are taxed only on Panamanian-source income. Residents are subject to tax levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. Non-residents are subject to tax levied at a flat rate.

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Income tax

Liability to income tax

A person's total tax liability to Panamanian tax is determined by his or her residence status; residency status determines the tax rates applied to Panama-sourced income. A person can be a resident or a non-resident for Panamanian tax purposes. A resident for tax purposes is any person who stays more than 180 days in Panama in any calendar year. A non-resident of Panama is generally someone who spends less than 180 days in Panama in any calendar year. Extended business travelers are likely to be considered non-residents of Panama for tax purposes unless they enter Panama with the intention to remain in Panama for more than 180 days.

Definition of source

Employment income is generally treated as Panamanian-sourced compensation where the individual performs the services while physically located in Panama.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Panama.

Income may be excluded from taxation if it is attributable to services performed in countries other than the assignment location if the employee is out of the host country for more than 30 percent of the time in the calendar year.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment and Panamanian-sourced income and gains from taxable Panamanian assets (such as real estate).

Tax rates

For 2008 and 2009 residents, net taxable income is taxed at graduated rates ranging from zero percent to 27 percent. The maximum tax rate is applied to income earned over 30,000 Panamanian balboa (PAB). Non-residents are subject to tax at a flat rate of 15 percent.

Social security

Liability to social security

Social security covers workers compensation, illness, injury, and maternity leave in addition to old age pension. All compensation is subject to contributions of 8 percent for employees and 12 percent for employers. The employers' rate was increased to 12 percent on 1 January 2009.

Employers pay workers compensation. Rates range from 0.98 percent to Seven percent, depending upon the applicable risk classification. Educational tax is 2.75 percent of taxable compensation (1.50 percent for employers and 1.25 percent for employees).

The employer and employee rates are summarized as follows:

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
Social Security	12	8	20
Total Percent	12	8	20

Source: KPMG in Panama June 2010

Panama has entered into a formal social security totalization agreement with the 20 other Iberoamerican Organization countries to prevent double taxation and allow cooperation between Panama and overseas tax authorities in enforcing their respective tax laws.

Compliance obligations

Employee compliance obligations

Tax returns are due by 15 March following the tax year-end, which is 31 December. An extension to file may be granted for two months, but extensions to pay the tax are not granted. Individuals with employment income from only one source are not required to file a tax return if their income tax liability is satisfied through withholding.

Individuals required to file a tax return must, at the time of filing a return, declare estimated income for the next year and pay an estimated tax based on the difference between withholdings and estimated tax payable.

Estimated tax payable must be paid in three installments, which are due 30 June, 30 September, and 31 December.

Individuals receiving income from a single source (such as the local employer) are not required to pay estimated tax.

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system. If an individual is taxable in respect of employment income, the payer has a PAYG withholding requirement.

Other

Work permit/visa requirements

If an individual is a non-resident, that individual will need to comply with the entry clearance formalities applicable to nationals of that individual's particular country before coming to Panama. Requirements generally involve obtaining a visa and a work permit for those who come to Panama for employment purposes.

Immigration procedures will also need to be complied with for dependants accompanying the individual to Panama or who will be joining later.

If an individual is a national, the individual is not subject to the entry clearance requirements mentioned above, although the individual will need to bring a passport to establish identity and nationality satisfactorily. In some cases, other documents may be acceptable for this purpose (such as a national identity card); but the exact requirements should be checked before traveling.

Double taxation treaties

Panama has not entered into double taxation treaties.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

The standard tax rate of VAT is five percent of the amount of the professional fees or of the value of the transfer of the personal property or commodities except for the import, wholesale, and retail sale of alcoholic beverages, for which the tax rate is 10 percent and, for the import, wholesale, and retail of all kinds of cigarettes and cigars, for which the tax rate is 15 percent of the taxable base.

VAT in Panama is a tax on the transfer of tangible goods and rendering of services called ITBMS (Impuesto a la Transferencia de Bienes Corporales Muebles y Prestación de Servicios). In general, all transactions involving the transfer or transmission of tangible personal property (commodities and products), and the rendering of services within the Republic of Panama are subject to this value added-type tax.

Supplies that are liable to VAT include the following transactions:

- The sale or contract implying the exchange of ownership
- The personal use of corporate or non-corporate property by the owner, partners, directors, legal representatives, board of directors, or shareholders
- The promise of a sale (contract) on goods to be transferred physically
- Transfers of goods to owners, partners, or shareholders as a result of the definitive closure of an enterprise

- Rendering of services, such as:
  - Works with or without the delivery of materials
  - Intermediation in general
  - Personal use by the owner, partners, directors, legal representatives, board members, or shareholders of the enterprise of the services rendered by it
  - The rental of real estate and tangible property, or any other convention or act that implies or is intended to give the use or enjoyment of the property
- Importation of tangible goods or merchandise used either for personal consumption, charity, educational, scientific, or commercial purposes or for the transformation, improvement, or production of other goods

All individuals or legal entities that provide professional services, sell, and/or import goods, including state-owned industrial and commercial enterprises, are required to register when their monthly gross income exceeds 3,000 US dollars (USD) or USD36,000 per year.

Only individuals and legal entities registered as taxpayers (or taxable persons for VAT purposes) operating domestically within Panamanian boundaries may be registered in the Panamanian's Taxpayers Registry (Registro Único de Contribuyentes). Such a registration involves the identification of the relevant taxable person with an identification number valid for all tax purposes (including invoicing, filing of tax returns, and other reports to the tax administration).

The aforementioned registry includes not only VAT-taxable persons, but all other types of taxpayers and/or taxable persons subject to Panamanian tax laws (including income tax, excise taxes, VAT, and others).

Transfer pricing

Panama does not have a formal transfer pricing regime, although the tax authorities do examine prices charged between related entities. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Panama has a variety of strict data privacy laws, including those aimed at banking and e-commerce.

Exchange control

There is an exchange control restricting the movement of funds into Panama of USD10,000 as a maximum.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Panamanian pension funds.

Papua New Guinea

Introduction

A person's tax liability in Papua New Guinea (PNG) is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Only resident individuals are entitled to tax rebates and credits for foreign tax paid.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to work done in PNG.

Income Tax

Residents are taxed on worldwide income whereas non-residents are generally taxed on PNG-sourced income only.

Liability to income tax

A person's liability to PNG tax is determined by his or her residency status. A person can be a resident or a non-resident for PNG tax purposes. A resident of PNG generally refers to an individual who is domiciled in PNG or who stays in PNG continuously or intermittently for more than six months in any year of income. A non-resident of PNG is one who is domiciled outside PNG and who does not stay in PNG for more than six months. The general rule is that a person who is a resident of PNG is assessable on his or her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in PNG.

Definition of source

Employment income is generally treated as PNG-sourced compensation where the individual performs the services while physically located in PNG.

Tax trigger points

Earnings for any work done in PNG are normally taxable in PNG. Unless the individual qualifies for relief under the dependent personal services article of an applicable double tax treaty, the number of days worked in PNG is not relevant.

Types of taxable income

For extended business travelers, the types of PNG income that are generally taxed are employment income and PNG-sourced income such as interest or rents. In addition to cash income and allowances, employees are taxed on the prescribed values of accommodation and motor vehicles.

Tax rates

Net taxable income is taxed at graduated rates ranging up to 42 percent on incomes above 250,000 kina (PGK). The tax rates for non-residents are the same as those for residents, with the exception that non-residents do not benefit from the tax-free threshold applicable to income up to PGK7,000.

Liability to social security

Superannuation is a mechanism requiring individuals to save money for retirement. It is prescribed that employers make a minimum contribution of 8.4 percent of the employee's salary (capped at 15 percent of salary) into an Authorized Superannuation Fund. The minimum contribution by employees is 6 percent of their salary. Superannuation contributions are not mandatory for expatriates.

Employee compliance obligations

Tax returns are due by 28 February following the tax year-end, which is 31 December. Where a tax agent is used, there is an automatic extension. Tax returns are required to be filed by non-residents who derive any PNG-sourced income (other than PNG salary or wages income and PNG dividend or interest income, which are subject to final withholding tax).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the salary and wages tax system. If an individual is taxable in respect of employment income, the payer has a salary and wages tax withholding requirement. In addition, employers may be liable to a training levy where the annual payroll exceeds PGK200,000.

Other

Work permit/visa requirements

A work permit and visa must be applied for before the individual enters to work in PNG.

Double taxation treaties

PNG has entered into double tax treaties with nine countries to prevent double taxation and allow cooperation between PNG and overseas tax authorities in enforcing their respective tax laws. There is relief in the double tax treaties by which residents of other countries would not be subject to salary and wages tax in PNG under certain conditions.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and whether the home country of the employee has a double tax treaty with PNG.

Indirect taxes

Goods and services tax (GST) is levied at 10 percent of on taxable supplies of most goods and services. GST registration is required if annual turnover is in excess of PGK100,000.

Transfer pricing

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

PNG currently does not have data privacy laws.

Exchange control

PNG has foreign exchange control laws, which among other measures, require approval from the exchange control authority for the opening and operation by residents of a bank account outside PNG and the transfer or physical removal of cash in excess of PGK20,000 (or a foreign currency equivalent). A tax clearance certificate is required from the Internal Revenue Commission (IRC) to repatriate amounts exceeding PGK200,000 in any calendar year. This can be obtained if the employee's tax affairs are up-to-date.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to a non-PNG pension fund.

Peru

Introduction

A person's liability to Peruvian tax is determined by his or her residence status for taxation purposes and the source of his or her income. For residents, income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. For non-residents, income tax is levied at a flat rate on an individual's taxable income for the year.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Peruvian work days.

Income tax

Liability to income tax

A person's liability to Peruvian tax is determined by his or her residence status. A person can be a resident or a non-resident for Peruvian tax purposes.

A resident is defined as someone who has spent 183 days in Peru within any 12-month period. This status is lost after the individual is absent from the country at least 184 days (in total) during the previous year.

A change in the tax treatment applies at the start of the following Peruvian tax year.

The general rule is that a person who is a resident of Peru is assessable on his or her worldwide income. Non-residents and temporary residents are generally assessable on income derived directly or indirectly from sources in Peru. Extended business travelers are considered non-residents of Peru for tax purposes.

Definition of source

Employment income is generally treated as Peruvian-sourced compensation when the individual performs the services while physically located in Peru.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Peru. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment and Peruvian-sourced income and gains from taxable Peruvian assets (such as real estate).

Tax rates

Peruvian individual income taxes are calculated using a progressive scale expressed in tax units. These units are established each year by the government and the current tax unit value for 2010 is 3,600 Peruvian nuevo sol (PEN). It was PEN3,550 and PEN3,500 for 2009 and 2008 respectively.

For residents, net taxable income is taxed at graduated rates ranging from 15 percent to 30 percent (15 percent, 21 percent, and 30 percent). The maximum tax rate is currently 30 percent on income earned over 54 tax units. Non-residents are subject to flat tax rate of 30 percent on total taxable income.

Social security

Liability to social security

Employers and employees must make contributions to the social tax scheme in Peru as follows:

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
Health system	9	0	9
Pension Fund	0	13	13
Total Percent	9	13	22

Source: KPMG in Peru June 2010

With regard to the pension fund:

- The employee can choose between the Public Pension System (ONP) and the Private Pension System (from the available pension management companies)
- Each of these entities applies a different rate, so the 13 percent listed above is an average value

Peru has entered into a formal social security totalization agreement with the 20 other Iberoamerican Organization countries to prevent double taxation and allow cooperation between Peru and overseas tax authorities in enforcing their respective tax laws.

Compliance obligations

Employee compliance obligations

Annual income tax returns are due during the first three months following the tax year-end, which is 31 December. Due dates are established each year by the Peruvian tax administration (SUNAT).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system. If an individual is taxable in respect of employment income, the employer has a PAYG withholding requirement.

Withholding obligations are applied only to resident employers. If the employer is a non-resident entity, no tax withholding obligation arises, and it is the responsibility of the employee to file and pay the corresponding taxes properly.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Peru. The type of visa required will depend on the purpose of the individual's entry into Peru. Under limited circumstances, an individual may enter the country on a business visitor visa, called 'Visas de Negocios'. In order to qualify for the business visa, the short-term traveler may, among other very limited activities, attend meetings, attend a sales call on behalf of a non-Peruvian entity, and attend seminars. Another type of visa and, possibly, work permits will be required for individuals not meeting the criteria.

Business visas are generally valid for 90 days. The maximum business visa stay is 183 days.

Double taxation treaties

In addition to Peru's domestic legislation that provides relief from international double taxation, Peru has entered into double taxation treaties with six countries (Bolivia, Brazil, Canada, Colombia, Chile, and Ecuador) to prevent double taxation and allow cooperation between Peru and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment (PE) could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

A simple assignment of employees to Peru will not result in a PE in Peru. The following are considered to be examples a PE of a non-resident entity:

- A person acting in Peru on behalf of the non-resident entity and empowered by it to sign contracts on its behalf, and who habitually uses such empowerment in Peru; or
- A person acting in Peru on behalf of the non-resident entity who habitually maintains goods in stock within Peruvian territory to be negotiated in Peru.

Indirect taxes

The standard rate of VAT is 17 percent. The Municipal Promotion Tax (Impuesto de Promoción Municipal (IPM)) of 2 percent is also added to the value of goods or services used to determine the IGV (Peruvian VAT), which results in a 19 percent sales tax overall.

The Peruvian VAT (Impuesto General a las Ventas, (IGV)) is a tax based on the value-added method. It is applied following the subtraction method on a financial basis of tax against tax.

VAT is payable on:

- The sale of goods in the country
- The rendering of services in the country
- The use of services in Peru (rendered by non-residents)
- The first sale of real estate performed by the builder or companies linked to the builder
- Building activities
- Imports of goods

There is no special registry in Peru for VAT. Nevertheless, there is an obligation for all taxpayers to register with the Peruvian tax authority (SUNAT) to obtain their taxpayer identification number (Registro Único de Contribuyentes (RUC)).

The aforementioned registry not only includes VAT-taxable persons, but all other types of taxpayers and/or taxable persons subject to Peruvian tax laws as well (including income tax, VAT, and others).

Transfer pricing

Peru has a transfer pricing regime based on arm's-length principles. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Management fees are deductible unless they are paid to a resident of a tax haven. The authorities release a list of tax havens each year. A 30 percent withholding rate is applied to management services performed in Peru, but does not apply if the services were rendered abroad. Additional information can be found in Articles 24 and 108-118 of the Income Tax Regulations and Resolution 167-2006.

Local data privacy requirements

Recent legislative activity and governmental agency reports has Peru moving towards a comprehensive data protection regime based upon the EU Data Protection Directive 95/46/EC. Until those laws are passed, various laws and articles of the 1993 constitution outline current data privacy rights.

Exchange control

Peru does not restrict the flow of Peruvian or foreign currency into or out of the country.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Peruvian pension funds.

Philippines

Introduction

Resident citizens are taxed on their income from all sources. A person who is not a citizen of the Philippines (that is, someone who is defined as an alien), regardless of whether he or she is a resident or a non-resident, is taxed only on his or her income from Philippines sources. Likewise, non-resident citizens are taxed only on their income from Philippines sources.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Philippines work days.

Income tax

Liability to income tax

The liability of aliens to Philippines tax is determined by their residence status. An alien who is present in the Philippines for at least two years is a resident alien. An alien who stays in the Philippines for less than two years is considered a non-resident alien. There are two classifications of a non-resident alien:

- Engaged in trade or business in the Philippines
- Not engaged in trade or business in the Philippines

A non-resident alien engaged in trade or business (NRAETB) is one who stays in the Philippines for more than 180 days during the calendar year. If he or she stays in the Philippines for less than 180 days, he or she is considered a non-resident alien not engaged in trade or business (NRANETB). The taxable income of citizens, resident aliens, and NRAETB is defined as gross compensation and net business income less personal allowances. The taxable income of NRANETBs is their gross income.

Non-resident citizens and aliens are subject to income tax on Philippines-sourced income only.

Resident citizens are subject to Philippines income tax on worldwide income. Non-resident citizens and aliens are subject to Philippines income tax on their Philippines-sourced income only, such as employment income and passive income.

Definition of source

Employment income is generally treated as Philippines-sourced compensation where the individual performs the services while physically located in the Philippines.

NRANETBs are taxed at a flat rate of 25 percent.

Social security

Compliance obligations: Income tax returns are due by 15 April in the year following the tax year ending 31 December.

Employers are required to withhold tax from the employee's compensation.

Tax trigger points

Extended business travelers will be taxable in the Philippines on income derived in respect of services rendered in the Philippines. It is important to ascertain whether they will be taxed as NRAETBs or NRANETBs, that is whether they were in the Philippines for more or less than 180 days as this will determine the tax rate applicable.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and other Philippines-sourced income.

Tax rates

Net taxable income of citizens, resident aliens and NRAETBs is taxed at graduated rates ranging from 5 percent to 32 percent. The maximum rate is currently 32 percent on income earned over 500,000 Philippine pesos (PHP). NRANETBs are taxed at a flat rate of 25 percent of gross income unless a lower rate is applicable under a double tax treaty or special law.

Liability to social security

Each employer is required to deduct an amount from the salary of each employee for premium contributions remittable to a Social Security fund and the Medicare System to finance the retirement, sickness, disability, health and other social security benefits of the employee. The employer is also required to remit a counterpart contribution for the employee. The amount of premium contributions by the employer and employee depends on the salary bracket of each employee, based on a pre-calculated table of contributions.

Employee compliance obligations

An individual taxpayer is taxable on a calendar year basis. In general, every citizen, resident alien and NRAETB in the Philippines is required to file an income tax return. The return must be filed and the net tax is due on or before 15 April following the close of the year covered by the return.

Employer compliance obligations

The employer is required to withhold the tax due from the employee's compensation income and remit the same to the tax authorities. If the correct amount of tax due has been properly withheld during the calendar year, the employee may qualify for substituted filing, in which case there is no need for the employee to file an annual income tax return. A NRAETB, however, does not qualify for substituted filing.

The employer reports the tax withheld using BIR Form 1601-C (Monthly Remittance Return of Income Taxes Withheld on Compensation) and BIR Form 1604-CF (Annual Information Return of Income Tax Withheld on Compensation and Final Withholding Taxes).

Other

Aliens may be required to show proof that they paid their income tax when they renew their visa.

Work permit/visa requirements

A visa must be applied for before the individual enters the Philippines. The type of visa required will depend on the purpose of the individual's entry into the Philippines. For aliens renewing their Philippines visa, the Philippines Bureau of Immigration and Deportation requires them to show proof that they paid their income tax in the preceding year. For individuals who are required to file a return, the proof would be their Philippines income tax return. For those not required to file a return, a certificate of taxes withheld issued by the withholding agent may suffice.

Double taxation treaties

In addition to the Philippines' domestic arrangements that provide relief from international double taxation, the Philippines has entered into double taxation treaties with 38 countries to prevent double taxation and allow cooperation between the Philippines and overseas tax authorities in enforcing their respective tax laws. Tax treaty relief, however, is not automatic. A confirmation from the tax authorities in the form of a Bureau of Internal Revenue Ruling/Certification is generally required.

Permanent establishment implications

Under the double taxation treaties of the Philippines with other countries, there is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT of 12 percent is imposed on sales made, in the course of trade or business of goods, properties and services in the Philippines and on the importation of goods to the Philippines (regardless of whether the importation is for business use).

Transfer pricing

The Philippines, as a matter of policy, subscribes to the OECD's Transfer Pricing Guidelines as its Interim Transfer Pricing Guidelines while the draft of the Revenue Regulations on Transfer Pricing is still pending. Until the revenue regulations on transfer pricing are issued, any and all concerns/issues in the interim related to transfer pricing shall be resolved in accordance with the principles laid down by the OECD Transfer Pricing Guidelines.

Local data privacy requirements

The Philippines currently does not have data privacy laws.

Exchange control

The Philippines has liberalized foreign exchange rules and regulations. Generally, foreign exchange receipts, acquisition, or earnings may be sold to or outside the banking system, or may be brought in or out of the country. Domestic contracts entered into by Filipino citizens can be settled in any currency.

Non-deductible costs for assignees

The personal and additional exemptions of PHP50,000 and PHP25,000 for each qualified dependant are not deductible to the employer. The said exemptions are deductible only from the gross compensation income of the assignee for the purposes of calculating his or her personal income tax liability in the Philippines.

Poland

Introduction

A person's liability to tax in Poland is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. In certain cases income tax is levied using a flat rate tax at 19 or 20 percent.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Poland work days. Other Polish-sourced income is also taxable. The application of relevant double tax treaties should be considered.

Income tax

Liability to income tax

An individual's income tax liability in Poland is determined by the residency status of that individual.

According to Polish personal income tax regulations, an individual having a place of residence in Poland will be subject to an unlimited tax liability in Poland (tax resident). Under such circumstances, his or her worldwide income will be subject to taxation in Poland regardless of the source of income.

Alternatively, an individual who does not have a place of residence in Poland will be subject to a limited tax liability in Poland. In this case, only income from Polish sources will be subject to Polish taxation.

Polish tax regulations provide for a definition of an individual having a place of residence in Poland as follows:

- An individual whose centre of vital interests (centre of economic or personal interests) is in Poland
- An individual who spends more than 183 days in a year in Poland

These rules, however, should be applied taking into consideration the provisions of double tax treaties concluded by Poland.

Generally, extended business travelers are likely to be considered non-residents of Poland for tax purposes unless they spend more than 183 days in a year in Poland or move their centre of vital interests to Poland.

Tax trigger points

There is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Poland. Exemption from tax may, however, result from the relevant double tax treaty if certain criteria are met. The individual becomes liable to taxation as soon as such exemption ceases to apply.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income or personal service contracts, other Polish-sourced income, and gains from Polish assets (such as interest, real estate income, etc).

Tax rates

Employment income is subject to taxation in Poland at progressive tax rates ranging from 18 percent to 32 percent. Capital gains are subject to a flat rate tax of 19 percent. Some specific types of income (personal service contracts, director's fees) received by non-residents are subject to 20 percent flat rate tax.

Social security

Liability to social security

Liability to Polish social insurance may be determined based on general EU provisions (place of performance of work), or based on Polish provisions if a local contract is concluded. The Polish social security system consists of three pillars, to which payments are made. The first and second are obligatory; the third is not. Contributions are split between the employee and the employer. Generally, social security applies to income derived under a Polish employment contract, and/or Polish service contracts, business activities, etc, depending on the situation. As a rule, it does not apply to foreign-sourced income, unless EU regulations are applicable.

The Polish social security scheme for employees is compulsory; it cannot be avoided by implementing special agreements, which would be null and void by law. Certain types of contract are not subject to Polish social insurance.

Extended business travelers employed by an employer located in an EEA Member State or Switzerland can in most cases remain subject to their home country social security scheme. They can obtain an exemption from paying social security in Poland, regardless of their country of citizenship. This exemption is based on the EEA/Swiss rules with respect to posting and/or simultaneous employment.

Other extended businesses travelers may in some cases stay in their home country social security system and also obtain an exemption from paying Polish social security based on the provisions of a social security treaty signed between their home country and Poland.

Compliance obligations

Employee compliance obligations

Individuals subject to Polish tax are required to make monthly tax advance payments (18 percent). These advance payments are payable by the 20th of the following month. An annual tax declaration should be submitted by 30 April of the following year. The payment of the tax due is transferred to the Tax Office bank account on the same date. Tax returns are required to be filed by non-residents who derive any Polish sourced income.

Employer reporting and withholding requirements

Foreign employers are not responsible for Polish tax advance payments. Withholdings from Polish employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual concludes a local contract, the employer is subject to PAYE withholding requirements. The tax withheld by the employer must be paid to the tax office by the 20th of the month following the month in which the tax was withheld. In the case of foreign employment contracts, the individual is personally responsible for tax payments; the foreign employer is not involved.

Other

Work permit/visa requirements

Travelers from most countries can enter Poland without a visa. Citizens of states with which Poland has signed agreements relating to visa-free travel may remain within the territory of Poland (without performing work) for periods of up to three months. However, citizens of certain countries still require a visa in order to enter Poland. In general work permits are required for foreign individuals. Only employees of certain EU countries are exempt from the work permit requirement. The procedure for obtaining this document requires involvement of the Polish company where work is performed.

Double taxation treaties

Poland has a broad network of bilateral tax treaties. Polish domestic tax regulations also provide methods to avoid double taxation of income taxed outside Poland.

Permanent establishment implications

There is potential risk that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Poland's basic rate of value added tax (VAT) is 22 percent. Certain transactions are subject to lower rates of 7 percent, 3 percent, or 0 percent, and some transactions are exempt from value added tax.

Taxes are also imposed on certain civil law transactions such as loans, the creation of a company, etc.

Transfer pricing

Poland has a transfer pricing regime.

Local data privacy requirements

Poland has data privacy laws and it is recommended that the employer obtain the employee's consent in order to transfer data outside Poland. The consent should state the specific data to be transferred, the reason for transfer and the party to whom the information will be transferred. An electronic signature or acceptance from the employee is sufficient for this consent requirement.

Exchange control

Poland does not restrict the flow of Polish or foreign currency into or out of the country. However, certain reporting obligations are imposed to control tax evasion and money laundering. Amounts in cash up to 10,000 euros (EUR) (or the equivalent in foreign currencies) may be taken out of the country without specific permits; any amounts may be transferred out of the country, provided appropriate documentation exists such as contracts, invoices, etc.

Some limitations and restrictions are applicable, especially in relation to transactions with entities from states which are not part of the EU, EEA, OECD, or states with which Poland has not concluded bilateral investment treaties.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions paid by an employer to pension funds outside the European Union. In addition social insurance payments already deducted in other countries are non-deductible in Poland.

Portugal

Introduction

A person's liability to Portuguese tax is determined by his or her residence status for taxation and the source of income derived by him or her.

Portuguese residents are subject to tax on their worldwide income at progressive marginal tax rates and non-residents are subject to Portuguese tax on their Portuguese-sourced income at the applicable rates, depending on the type of income received (flat rates between 15 and 25 percent). A double taxation treaty may provide a variation to these rules.

Under the new regime of non-habitual tax residents, the individuals who normally qualify as tax-resident will be subject to tax on Portuguese-sourced income at a special 20 percent rate; a tax exemption applies to the foreign-sourced income received by the individual (if certain conditions are met, namely, if the referred income is subject to tax in its country source).

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Key messages

Extended business travelers are likely to be taxed on employment income related to their Portuguese working days.

Income Tax

Liability to income tax

A person's liability to Portuguese tax is determined by his or her residency status.

A person qualifies as resident for tax purposes in Portugal provided that he or she is physically present in Portugal for more than 183 days during the calendar year, either continuously or not, or that he or she owns a home in Portugal at 31 December of the relevant year with the intention to use and occupy it as his or her habitual residence.

A Portuguese resident is liable to tax on his or her worldwide income.

If none of the above conditions is met, the person is considered to be a non-resident. Tax liability will occur only with regard to his or her Portuguese-sourced income (in the case of employment income, Portuguese-sourced income would include compensation derived from activities performed in Portugal as well as compensation paid by a Portuguese entity).

The special regime for non-habitual tax residents will apply provided that the individual:

- Has not been taxed as resident in Portugal in the last five years
- Qualifies as tax resident in Portugal under the domestic rules in each year of that 10-year period
- Is registered as a 'non-habitual' tax resident with the Portuguese tax authorities

The option to be taxed under this regime is valid for 10 consecutive years.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Portugal with regard to Portuguese working days. The application of a double tax treaty may, however, determine that the employee does not have a filing and payment obligation, provided that he or she spends less than 183 days in Portugal and that his or her income is not paid by or recharged to a Portuguese entity.

Types of taxable income

For extended business travelers, the types of income that are generally subject to tax are employment income as well as any other Portuguese-sourced income and gains from taxable Portuguese assets (such as real estate). The definition of employment income is broad and tends to include all benefits in kind.

Tax rates

Net taxable income earned by a resident is taxed at progressive marginal tax rates from 10.5 percent up to 42 percent. Some flat rates may apply (for example interest and dividends are taxed at 20 percent).

For non-residents the tax rate depends on the type of income. Gross employment income, for example, is taxed at a 20 percent flat tax rate. Rental income is taxed at a 15 percent special tax rate, and interest and dividends are taxed at a 20 percent flat rate. Other types of Portuguese-sourced income are usually taxed at a 25 percent tax rate.

Under the non-habitual tax residents' special regime, and where the activity performed by the individuals in Portugal is deemed to be a 'high-value-added' activity[1], the employment income derived from such activity should be taxed at a 20 percent special rate.

Otherwise, that is if the activity that the individuals perform is not deemed to be 'high-value-added', the employment income received will be taxed at the marginal tax rate up to 42 percent.

This regime also allows that a tax exemption applies to the foreign-sourced income received by the individual, if certain conditions are met.

[1]As listed in the Ministerial Order 12/2010, 7th January.

Social security

Liability to social security

Individuals working in Portugal are liable to social security contributions at a rate of 11 percent on their gross remuneration (10 percent for board members).

Employers are liable to social security contributions at a rate of 23.75 percent on the same gross remuneration (21.25 percent for members of the board). As a rule, contributions are not capped except for those of board members.

In general terms, an exception for social security contributions can apply if a foreign employee is assigned to work in Portugal for an expected period of less than one year and continues to pay social security contributions in his or her home country. Such a period of exemption may be extended for an additional 12 months.

Based on the EU regulations as well as on social security bi-lateral agreements, an exemption may apply on social security contributions for extended business travelers.

Compliance obligations

Employee compliance obligations

Tax returns are due within the following deadlines (depending on the type of income received and on whether the return is filed on paper or online):

- From 1 March to 31 March of the following year: tax return filed on paper and if only employment and/or pension was received
- From 1 April to 30 April of the following year: tax return filed on paper and if other type of income was received
- From 1 April to 30 April of the following year: tax return submitted through the Internet and if only employment and/or pension income was received
- From 1 May to 31 May of the following year: tax return submitted through the Internet and if other type of income was received

Employer reporting and withholding requirements

If the income is paid by a Portuguese company, the employer is required to withhold tax on a monthly basis at:

- Progressive marginal rates, if the individual qualifies as a resident; or
- 20 percent flat rate, if the individual qualifies as a non-resident.

The employer is also required to report the income paid and tax withheld to the employee and to the tax authorities within specific deadlines.

Other

Work permit/visa requirements

Non-European Union individuals must apply for a visa before their arrival in Portugal. The type of visa required will depend on the purposes of the individual's entry into Portugal.

Double taxation treaties

In addition to Portuguese domestic arrangements that provide relief from international double taxation, Portugal has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow cooperation between Portugal and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT (Value Added Tax) may be required in Portugal on the following:

- Supply of goods and rendering of services carried out in the Portuguese territory
- Imports of goods
- Intra-community acquisition of goods

There are three different VAT rates:

- Reduced: 5 percent (applied in general to basic food products, pharmaceutical products, medical services, electricity, etc)
- Intermediate: 12 percent (applied in general to wine, flowers, oil, and diesel oil, etc)
- Normal: 20 percent (applied to the remaining goods and services not subject to the above rates)

Transfer pricing

Portugal has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but is performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Portugal has data privacy laws.

Exchange control

Portugal does not restrict the flow of Portuguese or foreign currency into or out of the country. However, certain reporting obligations are imposed to control tax evasion and money laundering.

Puerto Rico

Introduction

A person's liability to Puerto Rican tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Puerto Rican work days.

Income tax

Liability to income tax

A person's liability to Puerto Rican tax is determined by his or her residence status. A person can be a resident or a non-resident for Puerto Rican tax purposes. An individual is presumed to be a resident of Puerto Rico if he or she spends more than 183 days in a calendar year in Puerto Rico. A non-resident of Puerto Rico is generally someone who spends less than 183 days in Puerto Rico. The general rule is that a person who is a resident of Puerto Rico is assessable on his or her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in Puerto Rico. Although Puerto Rican nationals are US citizens, bona fide residents of Puerto Rico are exempt from US federal income tax on income derived from sources within Puerto Rico.

Extended business travelers are likely to be considered non-resident of Puerto Rico for tax purposes.

Definition of source

Employment income is generally treated as Puerto Rican-sourced compensation where the individual performs the services while physically located in Puerto Rico.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Puerto Rico as a non-resident alien who performs services as an employee will be considered engaged in a Puerto

Rican trade or business. The individual will not, however, be subject to Puerto Rican tax if all the following apply:

- The services are performed for a foreign employer
- The employee is present in Puerto Rico for less than 90 days during the tax year
- Compensation for the services performed in Puerto Rico does not exceed 3,000 US dollars (USD)

If one of those conditions is not satisfied, then the entire amount of Puerto Rican-source of income will be taxable.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment and Puerto Rican-sourced income and gains from taxable Puerto Rican assets (such as real estate).

Tax rates

Net taxable income is taxed at graduated rates, depending upon filing status. The rates range from 7 percent to 33 percent. Non-residents are subject to the same tax rates. The maximum tax rate is currently 33 percent on income earned over USD25,000 in the case of married individuals living with spouses and filing separate and is 33 percent on income earned over USD50,000 for all other filers.

Social security

Liability to social security

The US federal social security rules apply in Puerto Rico, including the wage basis and tax rates.

Social security tax (established by the Federal Insurance Contributions Act (FICA)) is imposed on both the employer and employee. FICA is assessed on wages paid for services performed as an employee within the US, regardless of the citizenship or residence of either the employee or employer. The employee portion of the tax may not be deducted in computing US income tax.

Consists of two parts, the old-age, survivors, and disability insurance tax (OASDI) and Medicare tax (hospital insurance part). The OASDI rate is 6.2 percent on all wages up to USD106,800 (for the year 2009). This cap is adjusted annually. The Medicare tax rate is 1.45 percent, imposed on all wages without a cap.

Foreign national employees may be exempt from FICA pursuant to a totalization agreement between the US and the employee's home country. Totalization agreements eliminate dual coverage and contributions for foreign nationals working in the US for limited time periods. In addition, some non-resident visa holders (specifically, F, J, Q, and M visas) may qualify for exemption from FICA.

The contribution rates are summarized as follows:

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
Social Security	6.20	6.20	12.40
Medicare	1.45	1.45	2.90
Total Percent	7.65	7.65	15.30

Source: KPMG in Puerto Rico June 2010

Note that currently, the social security part (OASDI) is assessed only on wages up to a certain amount. For 2009, that amount was USD106,800.

Compliance obligations

Employee compliance obligations

Tax returns are due by 15 April following the tax year-end, which is 31 December. Foreign taxpayers will generally not be required to file a tax return if their entire tax liability was fully satisfied by Puerto Rican withholding.

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system. If an individual is taxable in respect to employment income, the payer has a PAYG withholding requirement.

Other

Work permit/visa requirements

Generally, Puerto Rico follows the same immigration laws as the US. A visa must be applied for before the individual enters Puerto Rico. The type of visa required will depend on the purpose of the individual's entry into Puerto Rico.

Foreign nationals generally must obtain visas at American embassies and consulates to enter the US. A waiver of the visa requirement is available to nationals of most developed countries if a trip is brief and for tourism or non-employment business purposes.

Individuals coming to the US for the purpose of engaging in employment must generally obtain a visa that authorizes such employment. Information on visa and other travel/work document requirements can be obtained from the US embassy or consulate in your jurisdiction or by visiting the US Department of State website at www.travel.state.gov.

Temporary or non-immigrant visas are granted to provide the opportunity of employment in the US. Assignees may also be eligible for permanent residence (green card status), which may be based upon the sponsorship by a relative who is a citizen or a green card holder. Additionally, green cards may be issued in connection with permanent employment in the US, in which case sponsorship by the employer is not unusual.

Most assignees initially work in the US with non-immigrant visas.

Certain non-immigrant visas provide work authorization for employment in the United States, as well as for the assignee's spouse and dependants. If, however, a particular visa does not provide for work authorization for the assignee's spouse or dependants in the US, they would need to obtain their own employment visas to be eligible to work in the US.

Because there are many different visa categories, which are applicable to different employment relationships, we recommend obtaining professional assistance from an experienced law firm if the company does not have qualified professionals on staff.

The following lists examples of non-immigrants, by alien classification, who are authorized to work in the US without specific authorization from the Immigration and Naturalization Service (INS). This listing is abbreviated and, therefore, not all-inclusive. The alien's I-94 will not have the INS employment authorization stamp, and the alien will not have an Employment Authorization Document (EAD).

For the L-2 classification, the spouse is also authorized to work without specific DHS authorization. The L-2 spouse is not required to apply to DHS for an EAD card as documentary evidence of work authorization but may choose to do so.

Class of Admission	Description
F - 1	Academic student — for on-campus employment and DSO authorized curricular practical training
H - 1B	Worker in specialty occupation
J - 1	Exchange visitor (pursuant to an approved program)
L - 1	Intra-company transferee
L - 2	Spouse of an intra-company transferee

Source: KPMG in Puerto Rico June 2010

Double taxation

Income taxes paid or accrued during the taxable year to the US and its possessions and to foreign countries may be credited against the Puerto Rican income tax to avoid double taxation. Resident aliens are allowed such credit if their home country allows a similar credit to US citizens. As a general rule, only residents are in a position to claim the foreign tax credit against their Puerto Rican tax because, in principle, only they are subject to Puerto Rico taxes on their worldwide gross income. The foreign tax credit is subject to two limitations, a per-country limitation and an overall limitation.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

Puerto Rico assesses a combined 7 percent sales and use tax. Taxpayers must register at the local level.

Transfer pricing

Puerto Rico generally follows the US rules as provided for in Internal Revenue Code Section 482 and the related regulations. Management fees are generally deductible, and withholding is generally not required for management fees.

Local data privacy requirements

Puerto Rico follows similar data privacy rules as the US. The data privacy scheme in the US is a collection of federal, state, and industry case law, rules, and practices as a result.

For example, (these are not comprehensive examples):

- The Office of Management and Budget plays a limited role in setting policy for federal agencies under the Privacy Act of 1974
- The American Institute of Certified Public Accountants and the Canadian Institute of Chartered Accountants have developed a Generally Accepted Privacy Principles framework that companies can follow
- The Federal Trade Commission has oversight over some privacy areas
- The USA PATRIOT Act, renewed in 2006, addresses some privacy issues

Exchange control

Puerto Rico does not restrict the flow of currency into or out of the country.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-US pension funds.

Romania

Introduction

A person's liability to Romanian tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at flat tax rate of 16 percent applied to each type of income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Romanian work days.

Income tax

Liability to income tax

A person's liability to Romanian tax is determined by his or her residence status. A person can be a resident or non-resident for Romanian tax purposes. A resident of Romania generally is defined as an individual who has domicile in Romania, has a center of vital interests in Romania, or spends more than 183 days in Romania during any 12-month period ending in the fiscal year concerned. A non-resident of Romania is generally someone who spends less than 183 days in Romania. The general rule is that a person who is a resident of Romania is assessable on his or her worldwide income. Non-residents are generally assessable on income derived from sources in Romania. An exception is available for non-Romanian nationals who are treated as Romanian tax residents. During the first three years of being Romanian tax residents, these individuals are liable to Romanian tax only on Romanian-sourced income. Full liability to tax may occur in the fourth consecutive year. Extended business travelers are likely to be considered non-residents of Romania for tax purposes unless they spend more than 183 days in Romania.

Employment income is generally treated as Romanian-sourced compensation to the extent that the individual performs services while physically located in Romania.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Romania. To the extent that the individual qualifies for relief in terms of the dependent personal services article of an applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Romanian entity is the economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Romanian-sourced income and gains from taxable Romanian assets (such as real estate). Fringe benefits, broadly non-cash employment income, are deemed to be employment income and taxed similarly to employment income.

Tax rates

Net taxable income is taxed at a flat rate of 16 percent. Non-residents are also subject to a flat tax rate of 16 percent.

Social security

Liability to social security

Generally, a 5.5 percent health insurance contribution is due by foreign individuals who have residence in Romania (that is who obtain a Romanian residence permit).

Exemption from Romanian social security contributions may be available where there is a totalization agreement between Romania and the home country or where EC Regulation 883/04 is applicable.

Compliance obligations

Employee compliance obligations

Generally, annual tax returns are due by 25 May following the tax year-end, which is 31 December. Employment income must be declared and income tax must be paid on a monthly basis, by the 25th of each month for the previous month.

No extension of the deadline is available.

Employer reporting and withholding requirements

Where an individual is employed by a non-Romanian employer, that employer has no personal tax withholding or reporting obligations. It is generally the employee's obligation to declare and pay Romanian personal tax on a monthly basis.

Other

Work permit/visa requirements

A visa and/or a work permit must be applied for before the individual enters Romania, depending on the nationality of the individual. The type of visa required will depend on the purpose of the individual's entry into Romania. There are various exceptions to the rule, especially for EU nationals.

Double taxation treaties

In addition to Romania's domestic arrangements that provide relief from international double taxation, Romania has entered into double taxation treaties with more than 80 countries to prevent double taxation and allow cooperation between Romania and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Value Added Tax (VAT) is applicable at 19 percent (standard VAT rate) in respect of taxable supplies. VAT registration may, in some circumstances, be required.

Transfer pricing

Romania has a transfer pricing regime and thus related party transactions have to observe the arm's-length principle.

Local data privacy requirements

Romania has data privacy laws.

Exchange control

Romania does not restrict the flow of Romanian or foreign currency into or out of the country. Certain reporting obligations are, however, imposed to control tax evasion and money laundering. New legislation requires financial institutions and other cash dealers to give notification of cash transactions over 10,000 euros (EUR), suspicious cash transactions and certain international telegraphic or other electronic funds transfers (there is no minimum amount). All currency transfers (in Romanian or foreign currency) made by any person into or out of Romania of EUR10,000 or more in value must be reported.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions to private medical insurance or pension funds above certain caps.

Russia

Introduction

A person's liability to Russian tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. The scope of taxation and tax rates applicable to individuals in Russia depend mainly on their tax residence status in Russia in a particular tax year. Income tax is levied at flat rates (13 percent for Russian tax residents; 30 percent for Russian tax non-residents) on an individual's taxable income for the year. Due to fairly low income tax rate for tax residents, there is a very limited number of possible tax deductions and the most significant is the property tax deduction on sale or purchase of land or dwellings. Tax deductions are only available for Russian tax residents.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Russian work days. Such an approach is not, however, directly addressed in Russian tax law and there are various potential interpretations of taxation rules for extended business travelers.

Income tax

Liability to income tax

A person's liability to Russian tax is determined by his or her residence status. A person has unlimited liability to taxation (as a 'tax resident') if he or she is physically present in Russia for a total of not less than 183 days during the previous 12 consecutive months. In order to determine an individual's tax residence status for a reporting calendar year, the 183-day check should be made in this calendar year (i.e. 1 January – 31 December) rather than in any other 12-month period. According to the clarifications of the Russian Ministry of Finance, for the purpose of calculations of Russian days, both days of arrival to Russia and days of departure from Russia should be counted.

If the '183 days presence' test is not fulfilled, the person has only limited liability to taxation (as a non-resident) in Russia, that is he or she is generally assessable only on income derived directly or indirectly from sources in Russia.

Extended business travelers will be considered non-residents of Russia for the particular calendar year unless they spend 183 days or more in Russia during the calendar year.

Definition of source

Employment income is generally treated as Russian-sourced compensation where the work is performed in Russia.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Russia. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there should not be a tax liability. The treaty exemption will not apply if the salary is borne by the Russian entity or by a permanent establishment that the foreign employer has in Russia.

Types of taxable income

For extended business travelers who do not qualify for tax residence in Russia, the types of income that are generally taxed are employment income, reimbursement of certain expenses, provision of benefits in kind that can be attributable to their activity in Russia, proceeds (if any) from transactions in property in Russia.

Tax rates

Remuneration is taxed at the flat rate of 13 percent for a Russian tax resident and at 30 percent for non-residents. Other rates apply to specific categories of non-employment income.

Social security

Liability to social security

Currently, Russian social security contributions are payable in the form of social contributions to the pension fund, social security fund and mandatory medical insurance funds and contributions for mandatory social insurance against occupational accidents and diseases (MSI). Generally, employment in Russia is the criterion for paying social security contributions.

Social security costs are borne by the employer only; employees are not required to contribute.

Contributions to the pension fund, social security fund and mandatory medical insurance funds are assessed on the gross payroll of each employee. The combined rate is 26 percent[1]. These contributions are kept at the level of 415,000 Russian roubles (RUB) of accumulated remuneration per employee per annum.

Contributions to the Pension Fund, Social Security Fund and Mandatory Medical insurance funds are not payable with regard to foreign nationals who, for migration purposes, have a status of temporary present in the territory of Russia.[2]

[1]Applicable in 2010. Starting from 2011 the combined rate is planned to be 34 percent.
[2]Foreign nationals are considered as temporary present in the territory of Russia if they have a migration card without a residence permit or without a permit for temporary residence in Russia.

MSI is payable on the total payroll at a flat rate which varies depending on the risk category of the employer, as determined by the Russian Social Insurance Fund. The current minimum rate is 0.2 percent of payroll and the maximum is 8.5 percent.

Compliance obligations

Employee compliance obligations

The general deadline for filing annual Russian tax returns is 30 April, and for paying income tax based on the tax return is 15 July of the year following the reporting year. No extensions are available.

Expatriate nationals who terminate their Russian assignment and leave Russia during a tax year are required to submit a tax return one month prior to departure. Income tax due should be paid within 15 days after submission of the tax return.

Generally, a tax return must be filed if the individual receives income that is subject to taxation in Russia if Russian income tax has not been withheld by a tax agent. A tax return is also required in order to apply for tax deductions or reliefs/tax credits under the double tax treaty.

Employer reporting and withholding

If remuneration is paid by an employer in Russia (i.e. Russian legal entity or representative office of a foreign legal entity in Russia), the employer is considered a tax agent and is obliged to calculate income tax on the employee's behalf, and to withhold and remit it to the budget at the source of payment. The employer is liable for the correct remittance. As a tax agent, the employer is obliged to report income paid to the individual and tax withheld during a reporting year on Form 2-NDFL, which must be submitted to the Russian tax authorities no later than 1 April of the following year.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Russia. The type of visa required will depend on the purpose of the individual's entry in Russia.

A foreign national can commence his or her employment in Russia only on obtaining a work permit, i.e. permission for a foreign employee to work at the position specified in the work permit within a certain period and region of Russia. Generally, only a direct employment contract with the employer can be used to obtain employment and work permits.

Double taxation treaties

Russia currently has agreements on avoidance of double taxation with more than 70 countries to prevent double taxation.

Permanent establishment implications

There is the potential that a permanent establishment could be created for a foreign employer as a result of an employee's extended business travel and consequent activity in Russia, but this would depend on the type of services performed and the level of authority the employee has, as well as the provisions of the relevant double tax treaty.

It should also be considered whether the presence of the expatriate employee in Russia during his or her extended business travel leads to registration requirements with the Russian tax authorities for the foreign employer.

Indirect taxes

Supplies of goods and services are generally subject to Value added tax (VAT).

The applicable VAT treatment depends on types of goods delivered or nature of services provided.

The standard VAT rate is 18 percent and applies to most goods and services.

The reduced VAT rates apply, inter alia, in the following cases:

- 10 percent rate: bread, milk, meat (specified), fish (specified), and medical goods (specified)
- 0 percent rate: international transportation of cargo and individuals; export operations

VAT-exempt supplies include the domestic sale of: some medical goods and services; some other specified goods and services; banking and insurance services, etc.

Also, cross-border provision of services may be VAT-exempt under the 'place-of-supply rules,' i.e. depending on the particular type of service and on whether the providing/receiving party operates in or outside Russia.

Starting from 2010, the accelerated VAT refund procedure has been introduced, which generally allows a taxpayer to receive the cash tax refund prior to completion of a desk tax audit. Only companies which are very large taxpayers may be eligible for such a procedure; additional regulations also apply (in particular, obligatory obtaining a guarantee with the authorized bank).

Transfer pricing

Transfer pricing rules allow the tax authorities to adjust taxable profits where transactions are not carried out at an arm's-length basis. The transfer pricing regime applies to transactions between interdependent parties inclusive of any charges made to the Russian company in respect of business travelers, as well as to foreign trade and barter transactions. Transfer pricing control also covers transactions performed by the taxpayer, where prices differ by more than 20 percent in a short period of time.

Local data privacy requirements

Russia has a data privacy law.

Exchange control

Foreign currencies can be exchanged at the daily exchange rates. Credit cards are accepted almost everywhere in Moscow, St. Petersburg and other large Russian cities.

Generally, foreign currency transactions between residents and non-residents can be performed without limitation. Currency transactions between non-residents generally can be performed without restrictions.

There are no limits for foreign or Russian currency brought into Russia (both residents and non-residents). In the case of bringing cash into Russia, travelers' checks or certificated securities in excess of the equivalent of 10,000 US dollars (USD), the entire amount needs to be reported to the Russian Customs Authorities.

The maximum amount of foreign or Russian currency that can be taken out of Russia without reporting it to the Russian Customs Authorities is an equivalent of USD3,000. In the case amounts more than USD3,000 but no more than USD10,000, the amount must be reported to the Russian Custom Authorities. Taking out of Russia an amount in excess of the equivalent of USD10,000 is not allowed unless the amount was previously brought into Russia within the limits indicated in the documents confirming such importation.

Non-deductible costs for assignees

Generally, Russian tax non-residents cannot deduct any expenses from their gross income.

A very limited list of deductions is available to Russian tax residents. Generally, they can deduct (within certain limits) only their expenses for education, medical treatment in Russia, voluntary personal insurance, and some others. These deductions are allowed by the Russian tax authorities on the basis of a person's individual tax return. Proper confirmation documentation should be also provided.

Saudi Arabia

Introduction

Tax in Saudi Arabia consists primarily of corporate income tax, withholding tax, and Zakat. Non-Saudi nationals are taxed on income from self-employment, income from capital investment and income from any business activity conducted in the Kingdom of Saudi Arabia at a rate of 20 percent.

Citizens of Saudi Arabia and the Gulf Co-operating countries (Bahrain, Kuwait, Oman, Qatar, and the United Arab Emirates) are exempt from the payment of income tax but are instead subject to the payment of Zakat. Zakat is a religious tax based on Islamic Law (the Sharia) and is assessed on earnings and holdings.

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Extended business travelers are not taxed on their employment income but may create a permanent establishment (PE) for the entity they represent.

Income tax

Liability to income tax

A resident non-Saudi individual who does business in Saudi Arabia will be subject to tax on income from any activity within Saudi Arabia less any deductions allowed within the law.

A resident individual is not subject to income tax on employment-related income (salary).

Tax trigger points

An individual is considered a resident if he or she meets either of the two following conditions:

- He or she has a permanent place of residence in Saudi Arabia and resides in the country for a total period of not less than 30 days in the taxable year
- He or she is physically present in Saudi Arabia for a period of not less than 183 days in the taxable year

Types of taxable income

For extended business travelers, the type of income that is generally taxed is income generated from a source in Saudi Arabia.

Tax rates

A non-Saudi resident individual who does business or a non-resident person who does business in Saudi Arabia through a permanent establishment is subject to tax at a rate of 20 percent of the tax base.

Income subject to tax is gross income including all income, profits, gains of any type and any form of payment resulting from carrying out the business activity, including capital gains and any incidental income other than exempt income.

Social security

Liability to social security

There is no liability to social security for business travelers although, if the individual is working (on a work visa/permit) for a company that is present in Saudi Arabia, the employer is responsible for the payment of social security.

Compliance obligations

Employee compliance obligations

There are no compliance obligations for employees in Saudi Arabia.

Employer reporting and withholding requirements

There are compliance obligations for resident employers in relation to social security.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Saudi Arabia. The type of visa required will depend on the purpose of the individual's entry into Saudi Arabia.

Double taxation treaties

Saudi Arabia's network of Double Tax Treaties (either signed, to be ratified, or in the process of being ratified) includes France, India, China, Pakistan, Austria, South Africa, United Kingdom, Korea, Spain, Malaysia, Italy, Netherlands, Turkey, Greece and Uzbekistan.

Permanent establishment implications

A permanent establishment (PE) may be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

According to Saudi Arabia's tax law, a PE has been defined to include a permanent place of activity of a non-resident through which it carries out business in full or in part, including business carried out through an agent.

The following are considered a PE:

- Construction sites, assembly facilities, and the exercise of supervisory activities connected with them;
- Installations or sites used for surveying for natural resources, drilling equipment, or ships used for surveying for natural resources, as well as the exercise of supervisory activities connected with them;
- A fixed base where a non-resident natural person carries out business; or
- A branch of a non-resident company which is licensed to carry on business in Saudi Arabia.

Indirect taxes

There are no indirect taxes in Saudi Arabia that are applicable to business travelers, except for customs duties on goods imported. Exceptions may be granted for used personal effects.

Transfer pricing

There are no specific transfer pricing rules in Saudi Arabia, although Saudi Arabian tax laws include a general 'anti-avoidance' clause.

Local data privacy requirements

Saudi Arabia has data privacy laws.

Exchange control

Currently, Saudi Arabia does not enforce any exchange controls.

Non-deductible costs for assignees

There are certain non-deductible costs, as set out in the Saudi Arabian tax regulation, for individual taxpayers.

Serbia

Introduction

Serbian legislation does not recognize the term extended business traveler. A person's liability to Serbian tax is determined by his or her tax residence status and the source of income derived by him or her. Income tax may be withheld and paid either at the time the income is paid (if it is Serbian-sourced income) or within 15 days of receiving the income (if income is received from abroad for work performed in Serbia).

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Taxation of extended business travelers' income is likely to be related to his or her employment and/or covering of business expenses in Serbia (such as expenses for rent and utilities).

Income tax

Liability to income tax

A person's liability to Serbian tax is determined by his or her residence status. A person can be a resident or a non-resident for Serbian tax purposes. A Serbian tax resident is an individual who remains (or has the intention to remain) in Serbia for more than 183 days in a 12-month period or whose residence or center of business and vital interest is within the territory of Serbia. A non-resident of Serbia is an individual who does not fulfill the abovementioned conditions.

The general rule is that a person who is a Serbian tax resident is assessable on his or her worldwide income. A non-resident is generally assessable on income derived from Serbian sources. Serbian-sourced income is recognized as income paid by a Serbian entity (or expenses covered for an individual), as well as income derived for work performed in Serbia.

Tax trigger points

According to Serbian regulations a business trip is limited to 30 days. If a person intends to spend more than 183 days in Serbia, he or she will be obliged to pay taxes on income related to the work performed in Serbia as of the first day of his or her extended business trip in Serbia.

Types of taxable income

For extended business travelers, the types of income that are generally taxable are employment income (for work performed in Serbia) and Serbian-sourced income (income from self-employment, immovable property, the lease of movable property, insurance, and other income, income from capital and capital gains). Expenses related to rent, utilities and any other private expenses that are paid on behalf of extended business travelers by a Serbian entity are regarded as taxable 'other income'.

For tax residents, all of the above stated income generated worldwide is subject to taxation. Tax residents are additionally subject to annual taxation (capital gains and income from capital are excluded from annual taxation).

Tax rates

There is a flat salary tax rate of 12 percent applicable on gross salary.

Other non-employment income is taxed at a 20 percent tax rate except income from self-employment which is taxed at 10 percent tax rate.

For annual taxation purposes, the tax rate is progressive. The threshold for annual taxation of foreigners who are Serbian tax residents is five times the average annual salary in Serbia. The amount exceeding this non-taxable limit, up to eight times the average annual salary in Serbia, will be subject to tax at the rate of 10 percent while the amount exceeding eight times the average annual salary in Serbia will be subject to tax at the rate of 15 percent.

Social security

Liability to social security

According to Serbian social security legislation, all foreigners, except those locally employed (who have local Serbian legal employer), remain in their home country social security system and therefore do not contribute to social security funds in Serbia.

Compliance obligations

Employee compliance obligations

An extended business traveler who is liable for taxation in Serbia, based on work performed in Serbia, is obliged to pay tax and file a tax return within 15 days of receiving salary abroad.

The same obligation exists for Serbian residents who are receiving income from abroad, who are also obliged to file an annual tax return.

The deadline for the annual tax return filing is 15 March of the current year for the previous year. The annual tax liability has to be paid within 15 days of receiving the Tax Authorities' assessment (usually in mid-May/June).

Employer reporting and withholding requirements

Not applicable.

Other

Work permit/visa requirements

If an individual intends to stay in Serbia for work purposes, he or she is required to obtain a visa and a temporary residence permit from the Ministry of Internal Affairs and a work permit from the National Employment Bureau.

Double taxation treaties

Serbia has entered into double taxation treaties with 36 countries, mostly in Europe, to prevent double taxation and allow cooperation with tax authorities in other countries in enforcing their respective tax laws.

Permanent establishment implications

There is potential risk that an extended business traveler may create a permanent establishment if he or she has a fixed place of business in Serbia for a period longer than 183 days, dependent on the level of authority the employee has.

Indirect taxes

The general VAT rate for the taxable supply of goods and service and import of goods is 18 percent, whereas the reduced tax rate is 8 percent. VAT registration is required for individuals who independently perform business activities whose total turnover in the 12 months exceeded or will exceed 4 million Serbian dinar (RSD).

Transfer pricing

Serbian law has basic provisions regarding transfer prices. Serbian Tax Authorities do not, however, have a developed transfer pricing practice.

Local data privacy requirements

Serbia has data privacy laws.

Exchange control

Serbia has certain restrictions in terms of flow of Serbian or foreign currency out of the country. When entering the country, residents and non-residents can freely bring in unlimited amounts of foreign and domestic currency, but amounts in value over 10,000 euros (EUR) must be reported to the Customs Authority.

Foreigners may freely transfer funds abroad on obtaining confirmation that all taxes have been duly paid. Amounts exceeding EUR10,000 can be returned abroad if they were reported when entering the country.

Anti-money laundering regulations require that all financial transactions in amounts exceeding EUR15,000 must be reported as well as all currency exchanges above EUR5,000.

Non-deductible costs for assignees

Serbian Personal Income Tax Law recognizes only statutory deductible costs of 20 percent. No other costs are deductible for assignees.

In terms of annual taxation, there are personal deductions of 40 percent of the average annual salary in Serbia for the taxpayer and an additional 15 percent of the average salary in Serbia for every dependant, up to 50 percent of the tax liability.

Tax paid abroad, related to income subject to annual taxation, is deductible for annual tax purposes.

Singapore

Introduction

Income tax

Foreign sourced income of resident individuals is generally exempt from tax. Non-residents are taxed only on Singapore-sourced income.

Singapore income tax is imposed on a territorial basis whereby the individual is generally taxed on all income accruing in or derived from Singapore. Since the year of assessment 2005, foreign-sourced income received in Singapore by resident individuals is exempt from tax unless the income is received through a partnership in Singapore.

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A frequent business traveler whose stay in Singapore exceeds 60 days in a calendar year will be subject to tax in Singapore on the income derived from his or her services performed in Singapore.

Income tax

Liability to income tax

A person's liability to Singapore tax is determined by his or her residence status. A person can be a resident or non-resident for Singapore tax purposes. A tax resident of Singapore generally refers to an individual who resides in Singapore and includes a person who is physically present in Singapore or exercises employment (other than a director of a company) for 183 days or more during the year preceding the year of assessment. A non-resident of Singapore is generally someone who spends less than 183 days in Singapore during the year preceding the year of assessment. For foreign individuals (excluding directors of a company and public entertainers) who commence working in Singapore from 1 January, 2007 and whose stay or work in Singapore is for a continuous period of at least 183 days straddling two years, he or she may be regarded as a tax resident for both years. A resident is taxed on all income accrued in or derived from Singapore, or received in Singapore from outside Singapore. Non-residents are taxed only on income accrued in or derived from Singapore. Effective from the year of assessment 2005, all foreign-sourced income received in or remitted into Singapore by a resident individual (except through a partnership in Singapore) is exempt from tax.

Source of employment income

Employment income is generally treated as Singaporean-sourced if the services are performed in Singapore, regardless of where the payment is made or the contract of employment is concluded.

A person working in Singapore for less than 61 days in a year may be exempt from tax.

The maximum tax rate is 20 percent.

Social security

Foreigners are exempt from participating in the central provident fund (CPF) scheme.

Compliance obligations

The tax filing deadline is 15 April.

Except in certain departure cases, employers are not required to withhold taxes from employees, but must provide employees with a Form IR8A by 1 March.

Types of taxable compensation

As a general rule, all payments (whether in the form of cash or in-kind) made by an employer to an employee in respect of his or her employment in Singapore are taxable in the hands of the employee, unless specifically exempted under the Income Tax Act or by concession.

Tax trigger points

A short-term visiting employee who exercises employment in Singapore for not more than 60 days in a calendar year (other than as a director or a public entertainer) is exempt from tax. Based on the above, a frequent business traveler whose stay in Singapore exceeds 60 days in a calendar year would be subject to tax in Singapore on the income derived from his or her work performed in Singapore. To the extent that the individual qualifies for exemption under the conditions of the dependent personal services article of the applicable double tax treaty, there will be no tax liability.

Tax rates

A resident is taxed on his or her chargeable income (after deducting applicable personal reliefs) at graduated rates ranging from 3.5 percent to 20 percent. Non-residents are subject to tax on employment income at a flat rate of 15 percent or at the resident tax rates, whichever is higher. Other income of a non-resident individual is generally taxed at 20 percent unless specifically exempt or subject to a reduced treaty rate.

Liability to social security

All foreign individuals are currently exempted from participation in Singapore's national pension scheme, the central provident fund (CPF). Upon becoming a permanent resident of Singapore, however, participation in the CPF is statutory.

Employee compliance obligations

Income tax returns (i.e., Form B1/B/M) are issued by the Inland Revenue Authority of Singapore (IRAS) in January each year. Individuals are required to complete and submit the form to the IRAS by 15 April. The IRAS may grant an extension beyond the 15 April deadline if there are valid reasons.

Employer reporting and withholding requirements

There is no requirement for the employer to withhold monthly taxes from the employee. Employers, however, are required to complete a return of remuneration form (Form IR8A) setting out the various payments under the employment for the year. The form is to be completed and given to employees by 1 March of the following year. For the year of assessment 2010, employers with 50 or more employees must electronically file the Form IR8A under the Auto-Inclusion Scheme.

Other

Foreigners are required to have an employment pass (EP) to work in Singapore.

Singapore has an extensive tax treaty network.

In the case of departing non-Singapore citizens, written notice (i.e. Form IR21 — Notice of Cessation of Employment of non-Singapore Citizens) must be given at least one month prior to the date on which the person ceases employment or leaves Singapore permanently or for a period exceeding three months. In addition, the employer must retain any money that is due to the employee. The employer can release the money to the employee only when the IRAS grants the tax clearance or upon the expiry of 30 days after the receipt by IRAS of the Form IR21.

Work permit/visa requirements

A foreigner who wishes to work in Singapore must apply to the Work Pass Division, Ministry of Manpower Singapore, for an Employment Pass (EP), to enable him or her to take up employment in Singapore. An EP will usually be issued to a foreigner who holds an acceptable degree, professional qualification, or specialist skills and whose monthly salary is above a set amount.

Double taxation treaties

Singapore has entered into double taxation treaties with more than 50 countries to mitigate double taxation and allow cooperation between Singapore and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of frequent business travel but this would generally be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Goods and service tax (GST) is currently applicable at 7 percent in respect of domestic consumption. GST is levied on the sale of goods and services in Singapore by GST-registered traders, and on goods imported into Singapore. Businesses whose turnover exceeds 1 million Singapore dollars (SGD) are required to register for GST.

Transfer pricing

While there is no specific legislation covering transfer pricing in Singapore, the IRAS has issued transfer pricing guidelines that should be applied.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Singapore has data privacy laws.

Exchange control

Singapore does not currently impose exchange controls.

Non-deductible costs for assignees

Non-deductible costs incurred by employers relating to assignees generally include private passenger car expenses and medical expenses exceeding a certain cap.

Slovakia

Introduction

Liability to Slovak tax is determined by a person's residence status for taxation purposes and the source of his or her income. Income tax is levied at a flat rate of 19 percent on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total taxable income.

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Key messages

Extended business travelers can be taxed on employment income relating to their Slovak work days.

Income tax

Liability to income tax

A person's liability to Slovak tax is determined by his or her residence status. A person can be a resident or a non-resident for Slovak tax purposes. A resident of Slovakia generally refers to an individual with permanent residence in Slovakia or who spends more than 183 days in Slovakia during a calendar year. A non-resident of Slovakia is generally anyone not qualifying as a tax resident, including persons exceeding the 183-day threshold by commuting to work from abroad. The general rule is that a person who is a resident of Slovakia is taxable on his or her worldwide income. Non-residents are generally taxable on income derived from sources in Slovakia. Provided that the extended business travelers do not transfer their center of vital interests to Slovakia, they are likely to be considered non-resident of Slovakia for tax purposes due to the double tax treaty tie-breaker rules.

Definition of source

Employment income is generally treated as Slovak-sourced compensation where the individual performs the services while physically located in Slovakia.

Tax trigger points

Slovak legislation provides for unilateral exemption of employment income for services performed in the territory of the Slovak Republic by a non-resident, if it is paid by an employer having its registered office or residence abroad, provided that the time period related to the performance of the work does not exceed 183 days during any 12 consecutive months, and provided that no permanent establishment of the employer exists in Slovakia. This unilateral exemption contains conditions similar to those determining taxing rights under the double tax treaties. Neither the unilateral nor the treaty exemption will apply if the Slovak entity is the traveler's economic employer, in which case the income would be taxable as of the first day of presence in Slovakia.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income, including fringe benefits and Slovak-sourced income, and gains from taxable Slovak assets (such as real estate).

Tax rates

Net taxable income is taxed at a flat rate of 19 percent.

Social security

Liability to social security

Extended business travelers employed by an entity located in an EEA Member State or Switzerland can in most cases remain subject to their home country social security scheme. They can obtain an exemption from paying social security in Slovakia, regardless of their citizenship. This exemption is based on the EEA/Swiss rules with respect to posting and/or simultaneous employment.

Other extended business travelers may in some cases stay in their home country social security system and also obtain an exemption from paying Slovak social security based on the provisions of a social security treaty signed between their home country and Slovakia.

If no continued home country social security coverage and no subsequent exemption from social security contributions is available, an extended business traveler may be subject to Slovak employee social security.

Compliance obligations

Employee compliance obligations

Tax returns are due by 31 March following the tax year-end, which is 31 December. An extension of a maximum three months can be applied for (or six months if the extended business traveler qualifies as Slovak tax-resident and includes foreign-sourced income).

Tax returns are not required to be filed and tax is thus zero if taxable income is less than certain annually updated threshold (approximately EUR2,000 for 2010).

Extended business travelers who envisage exceeding 183 days of stay in Slovakia may also be subject to a monthly tax prepayment obligation on their taxable income.

Employer reporting and withholding requirements

If employees of a foreign employer spend over 183 days during any 12 consecutive months in Slovakia, or if the employer creates a permanent establishment in Slovakia, it may qualify as a taxpayer who assumes the employer reporting and withholding obligations. This would however not be required if the activities in Slovakia comprise of provision of services.

Other

Work permit/visa requirements

A visa requirement exists only in relation to certain countries. The type of visa required will depend on the purpose of the individual's entry into Slovakia.

A work permit and residence permit may also be required, depending on the duration of the envisaged stay in Slovakia.

Double taxation treaties

In addition to Slovakia's domestic arrangements that provide relief from international double taxation, Slovakia has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow cooperation between Slovakia and foreign tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel.

Indirect taxes

Value Added Tax (VAT) registration of the foreign employer of the business traveler is usually not required as the obligation to charge VAT on the taxable supplies is transferred to the service recipient. However, if the services are provided from the fixed establishment, or if the recipient is not a taxable person, the VAT registration requirement may apply.

Transfer pricing

Slovak transfer pricing regulations are aligned with the OECD Regulations.

Local data privacy requirements

Slovakia has data privacy laws.

Exchange control

Slovakia in general does not restrict the flow of Slovak or foreign currency into or out of the country. Travelers entering or leaving the EU and carrying any sum equal to or exceeding EUR10,000 are however obliged to make a declaration to the customs authorities.

Certain reporting obligations are also imposed to control tax evasion and money laundering.

Non-deductible costs for assignees

Deductions in Slovakia are rather limited, the employee's social security contributions being the most significant deduction from the tax base.

Slovenia

Introduction

A person's liability to Slovenian tax depends on his or her residence status for taxation purposes and the source of income.

Income tax is levied at progressive tax rates on an individual's taxable income, which is calculated by deducting allowable reliefs from the total gross income.

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Extended business travelers are likely to be taxed on employment income relating to their Slovenian work days.

Income tax

Liability to income tax

A person's liability to Slovenian tax is determined by his or her residence status. An individual is deemed to be a resident of Slovenia if his or her officially registered address, habitual place or the center of his personal and economic interests are in Slovenia. In addition, any person who has been present in Slovenia in a tax year for more than 183 days in the aggregate is deemed to be a resident in that tax year. A non-resident of Slovenia is generally someone who spends less than six months in Slovenia and does not meet any of the above listed conditions.

The general rule is that a person who is a resident of Slovenia is taxable on his or her worldwide income, whereas non-residents are taxable on their income derived from sources in Slovenia. Extended business travelers are likely to be considered non-residents of Slovenia for tax purposes unless they enter Slovenia with the intention to remain in Slovenia for more than six months.

Tax trigger points

There is no minimum number of days that exempts the employee from the requirements to pay tax in Slovenia (from his or her source income). To the extent that the individual qualifies for relief in terms of the Income from Employment article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Slovenian entity is his or her economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income (including fringe benefits) and Slovenian-sourced income.

Tax rates

Taxable income is taxed at progressive tax rates ranging from 16 to 41 percent.

Social security

Liability to social security

Compulsory social security insurance schemes apply to the whole population; all employed people are included in the social security system. There are four social security insurance schemes: pension and disability insurance; health insurance; unemployment and maternity leave. Both employers and employees pay compulsory social security contributions. Employers withhold these contributions from salary payments and pay them together with their contributions every month as part of payroll accounting. The taxable basis for both employer and employee is the amount of the gross salary (including fringe benefits, leave payments, remuneration, etc). The social security contribution rate for employees is 22.1 percent and for employers 16.1 percent of the gross income (including benefits in kind).

Compliance obligations

Employee compliance obligations

During the year tax is paid in advance. These advance payments are taken into account when calculating the final tax obligation in the annual tax return (except for income from capital).

If a resident receives income from a foreign entity, a taxpayer is required to file a tax return and the tax advances are paid on the basis of the tax assessment issued by the tax authorities. For non-residents tax payments are made on the basis of the tax return filed with the tax authorities or the tax is withheld by the payer of income. The tax paid is considered as a final tax.

Since 2008, the Slovenian tax authorities have been obliged to generate an annual tax return from their own information to assess the tax and submit the tax return to the taxpayer. If the tax assessment has not been submitted to the taxpayer by 15 June, the taxpayer is obliged to file an annual tax return by the end of July. The tax liability of the taxpayer should be assessed by the tax authorities by the end of October of the same year.

Employer reporting and withholding requirements

The employer is obliged to withhold advance tax payments when the salary is paid. Employers withhold social security contributions from gross salary and pay them every month as part of payroll accounting.

Other

Work permit/visa requirements

Citizens of certain countries need an entry visa; the list of those countries is published on the website of the Ministry of Foreign Affairs. Visas are issued by Embassies of the Republic of Slovenia abroad. A visa must be obtained before the individual enters Slovenia.

In principle, EU citizens do not need work permits in Slovenia. Only registration of performance of services is required in this case. Citizens of non-EU countries are, however, required to have valid work permits. There are various types of work permits, depending on the circumstances.

A foreign citizen may stay in Slovenia for three months in a period of six months without a residence permit. If the period of stay is longer, a residence permit should be obtained. After arrival in Slovenia, a foreign citizen is required to register his or her accommodation at the relevant local administrative unit.

Double taxation treaties

In addition to Slovenia's domestic arrangements that provide relief from international double taxation, Slovenia has also entered into double taxation treaties with more than 40 countries to prevent double taxation and allow cooperation between Slovenia and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is a possibility that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed.

Indirect taxes

VAT (value added tax) is payable on all supplies of goods and services effected by a taxable person within the territory of Slovenia on intra-community acquisitions and importation of goods. The standard VAT rate is 20 percent and the reduced VAT rate is 8.5 percent (applies to goods and services specifically listed in the law).

Transfer pricing

In respect of transfer pricing Slovenia follows the OECD model. Transfer pricing implications could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction; this depends also on the nature and complexity of the services performed.

Local data privacy requirements

Slovenia has data privacy laws.

Exchange control

Slovenia does not restrict the flow of Slovenian or foreign currency into or out of the country. Certain reporting obligations are, however, imposed to control tax evasion and money laundering.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to pension plans not approved by the Slovenian Ministry of Labor and not registered with the Slovenian tax authorities. Such contributions shall be considered as a taxable benefit.

South Africa

Introduction

The South African tax system is residence based. In terms of the residence basis of taxation, any person who is considered to be a South African tax resident will be taxed on his or her worldwide income and capital gains. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Extended business travelers present in South Africa for less than six years are taxable on their South African-sourced income only, by virtue of the true source of their income.

Income tax

Liability to income tax

A person's liability to South African tax is determined by his or her residence status. A person can be a resident or a non-resident for South African tax purposes. A resident of South Africa generally refers to an individual who is 'ordinarily resident' in South Africa, i.e. South Africa is his or her true home, or a 'physically present resident' who spends more than 91 days in total in each of the current and previous five tax years, and more than 915 days in total during the previous five tax years (the days need not be consecutive). A non-resident of South Africa is generally someone who spends less than 91 days in total in each of the current and previous five tax years in South Africa.

The general rule is that a person who is a resident of South Africa is assessable on his or her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in South Africa. Extended business travelers are likely to be considered non-resident of South Africa for tax purposes unless they remain in South Africa for more than five years or make South Africa their true home.

Definition of source

Employment income is generally treated as South African-sourced compensation where the individual performs the services while physically located in South Africa.

Tax trigger points

In South Africa there is a threshold that exempts the employee from the requirement to file and pay tax. The tax-free threshold is currently (tax year 1 March 2010 to 28 February 2011) 57,000 South African rand (ZAR) for those below the age of 65 and ZAR88,528 for those aged 65 and older. These amounts are subject to change from year to year.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and gains from the sale or deemed sale of taxable South African assets (such as South African real estate).

Tax rates

Net taxable income is taxed at graduated rates ranging from 18 percent to 40 percent. Non-residents are subject to the same tax rates as residents. The maximum tax rate is currently 40 percent on income earned.

Social security

Liability to social security

South Africa does not have a social security system as such. Similar taxes do, however, apply, such as unemployment insurance fund contributions, skills development levies, compensation for occupational injuries and diseases levies, etc. Certain of these do not apply to expatriates in certain instances. No totalization agreements have been entered into.

Compliance obligations

Employee compliance obligations

Taxpayers must submit their annual tax returns by a specific date each year. This date is publicized and the South African Revenue Service (SARS) runs filing campaigns to encourage people to meet the deadline. Tax returns are required to be filed by non-residents who derive taxable South African-sourced income that is above the tax threshold. Individuals claiming relief from tax in terms of a double taxation agreement are also required to submit tax returns to claim such relief. Without submission and assessment of a return, a short-term business traveler is not guaranteed such relief.

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) and Standard Income Tax on Employees (SITE) system. If an individual is taxable in respect of employment income, a South African resident employer or representative employer has a SITE and PAYE withholding requirement. The employer will deduct employees' tax and at the end of a tax period will reclassify the employee's tax into SITE and PAYE according to prescribed tables. The first ZAR60,000 of net remuneration will be subject to SITE and the balance subject to PAYE. The SITE system will be abolished from 1 March 2011.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters South Africa. The type of visa required will depend on the purpose of the individual's entry into South Africa. Some work permits may be applied for once the individual is already in South Africa. Business/holiday visas often do not cover short-term business travelers.

Double taxation treaties

South Africa has a broad network of double taxation treaties. Subject to certain conditions, relief from South African tax will apply where the individual is tax resident, for treaty purposes, in the other state and is in South Africa for less than 183 days in the period defined in the relevant double taxation agreement. If paid in South Africa, or costs are recharged to a South African entity, however, this relief will usually not apply.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has, as well as the overall period of the project itself and the type of work being conducted.

Indirect taxes

The principal source of indirect taxation revenue in South Africa is value added tax (VAT). If a subsidiary or branch of a foreign-owned company sells goods or provides services, it must register as a vendor with SARS and charge and pay over VAT.

The standard rate of VAT is 14 percent. Exports, certain foodstuffs and other supplies are zero-rated, and certain supplies are exempt (mainly certain financial services, residential accommodation and public transport).

Transfer pricing

South Africa has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

South Africa currently has no data privacy laws, although these will be introduced in time.

Exchange control

Exchange control regulations restrict the inflow and outflow of capital in South Africa. All foreign exchange transactions are subject to the exchange control regulations. The controls are administered by the South African Reserve Bank through its agents. Agents, also known as authorized dealers, are situated in every South African bank. Every time money is transferred from overseas into South Africa or from South Africa into another country, those funds have to be declared with the Reserve Bank.

Under exchange control regulations there are no limitations as to how much money can be brought in to South Africa, but there are limitations on the amount of money that can be transferred out of South Africa. South African individuals are currently, for example, able to transfer up to ZAR2 million out of the country and invest it overseas. This is their lifetime allowance; additional allowances are available for traveling and other defined activities.

For all non-South Africans, their exchange control status is vital in deciding if there will be limitations on transferring money out of South Africa that was brought in previously. The exchange control status is independent of the tax status in South Africa. Different definitions apply. An individual should know his or her status for exchange control purposes and the legal implications of this status. It can have significant implications in terms of what the individual may or may not be allowed to do, and should be carefully managed at the outset so he or she does not encounter unnecessary problems down the line.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-South African pension funds, retirement funds and provident funds.

South Korea

Introduction

A person's liability to South Korean (Korean) tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her.

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Key messages

Tax compliance procedures for employers and expatriate employees depend on the nature of the employment income.

Income tax

A resident is an individual who is domiciled or resident in Korea for one year or more.

Liability to income tax

A person's liability to Korean tax is determined by his or her residence status. The general rule is that a person who is resident of Korea is assessable on his or her worldwide income[1]. Non-residents are only assessable on income sourced in Korea. A resident is an individual who is domiciled or resident in Korea for one year or more. A non-resident is an individual other than a resident. Generally, extended business travelers would be considered non-resident in Korea for tax purposes. Foreign workers may qualify for exemption under the relevant double tax treaty where the duration of their stay is six months or less and their salary is not paid by or borne by a Korean entity.

Definition of source

Employment income is generally treated as Korean-sourced where the individual performs the services while physically located in Korea.

A tax obligation does not occur until the expatriate commences work in Korea.

[1]However, tax residents in Korea of foreign nationality who have had a domicile or place of residence in Korea for five years or less in aggregate in the previous ten years ending on the last date of the tax year concerned, will not be subject to Korean income tax in relation to their foreign-sourced income attributable to that tax year unless the income is paid in or remitted to Korea.

Tax trigger points

Technically, there is no minimum number of days that exempts the employee from the requirements to file and pay tax in Korea. The tax obligation for Korean-sourced income, however, does not occur until the expatriate commences work in Korea.

Types of taxable income

There are two kinds of employment income: Class A income and Class B income. Class A income is employment income received from a domestic entity or expensed by a domestic entity for tax purposes. Class B income is employment income received from a foreign entity and not expensed by a domestic entity for tax purposes.

Expatriates can elect to apply a 15 percent flat tax rate (excluding resident surtax).

Social security

Those who stay in Korea for 90 days or more under a valid work visa are required to effect alien registration. Once the alien registration is effected, social security taxes will apply depending on the type of the earned income.

If the income is Class A income, the employer and employee are generally required to contribute to National Pension, National Health Insurance, Employment Insurance and Industrial Accident Insurance. If it is Class B income, only National Pension will apply. Exemption may be available under applicable totalization agreement.

Compliance obligations

Tax returns are due by 31 May. Class B income earners must file a tax return.

Other types of income that may be taxed include retirement income and capital gains.

Tax rates

Net taxable income of resident individuals is taxed at graduated rates ranging from 6 percent to 35 percent (excluding resident surtax). The maximum tax rate is currently 35 percent on income earned over 88 million Korean won (KRW). Individuals resident in Korea are also levied a per capita resident tax by their local Government in the amount of KRW10,000 or less. Tax rates for non-residents are the same as those for residents. However, expatriates can elect to apply a 15 percent (excluding resident surtax) flat tax rate to total Korean-sourced employment income. Individuals liable for payment of income tax in Korea are levied an additional resident tax at the rate of 10 percent of the income tax amount.

Liability to social security

The National Pension is a mechanism requiring individuals to save money for retirement. The current contribution rate is 9 percent of an employee's gross salary (4.5 percent contributed by the employer and 4.5 percent contributed by the employee), capped at KRW162,000 per month, each, unless there is a totalization agreement with the home country. Expatriates with D-7, D-8, D-9 visa types are required to participate in Employment Insurance unless they are exempt under a reciprocal principle. Expatriates are subject to Industrial Accident Insurance unless exempt under applicable totalization agreements. The required contribution is borne entirely by the employer. The applicable rate ranges from 0.6 percent to 36.0 percent. Expatriates are also required to participate in National Health Insurance unless they remain on an overseas payroll and the associated compensation costs are not charged back to Korea (i.e., Class B income). An exemption may be available if an expatriate is covered by employer-sponsored foreign medical insurance.

Employee compliance obligations

Tax returns are due by 31 May following the tax year-end, which is 31 December. Taxpayers who have only Class A income may not be required to file an annual tax return if there is no additional income to report. Class B income earners must file a tax return of their composite income on or before 31 May of the year following the tax year or join a taxpayer's association and pay the required taxes on a monthly basis through the association.

Other

Taxpayers who leave Korea permanently must file a final tax return prior to their departure for the period from 1 January to their date of departure.

Employer reporting and withholding requirements

For Class A employees, employers are required to withhold payroll taxes monthly, finalize the employee's tax liability and issue a payroll tax settlement certificate at the end of the tax period. Employers are not required to withhold taxes at the time of payment of Class B income.

Work permit/visa requirements

A visa must be applied for before the individual enters Korea. The type of visa required will depend on the purpose of the individual's entry into Korea.

Double taxation treaties

In addition to Korea's domestic arrangements that provide relief from international double taxation, Korea has entered into double taxation treaties with up to 70 countries to prevent double taxation and allow cooperation between Korea and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority they have.

Indirect taxes

VAT of 10 percent is imposed on the supply of goods and services and the importation of goods.

Transfer pricing

Under the International Tax Coordination Law, the tax authorities have authority to adjust a transfer price based on an arm's-length price and determine or recalculate a resident's taxable income when the transfer price used by a Korean company and its foreign related party is either below or above the arm's-length price. The arm's-length price should be determined by the most reasonable method applicable to the situation, which will depend on the nature and complexity of services performed.

Local data privacy requirements

Korea has data privacy laws.

Exchange control

All transactions involving foreign exchange in Korea or flows of capital between Korean residents and non-residents are controlled according to the provisions of the Foreign Currency Transactions Law.

Non-deductible costs for assignees

Non-deductible costs for assignees include costs of a foreign company's equity-based compensation that are charged back to a local company unless certain conditions are satisfied.

Spain

Introduction

A person's liability to Spanish tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at either progressive tax rates for residents (with flat rates for investment income and capital gains) or flat tax rates for non-residents on an individual's taxable income for the year. The taxable income is calculated by subtracting allowable deductions from the total assessable income in the case of residents. Non-residents do not have any allowable deductions or credits.

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Income tax

Liability to income tax

A person's liability to Spanish tax is determined by his or her residence status. A person can be a resident or non-resident for Spanish tax purposes. A resident of Spain generally refers to an individual who remains in Spain for more than 183 days in any given calendar year or has his or her business or economic interests located in Spain. Temporary absences are disregarded in order to calculate the number of days spent in Spanish territory, unless the individual can prove he or she has been resident in another country more than 183 days during the calendar year in question. In general, non-resident taxpayers are taxed at the rate of 24 percent on income obtained in Spanish territory or which arises from Spanish sources (19 percent for investment income and capital gains as of 1 January 2010). Furthermore, salaried workers earning less than 22,000 euros (EUR) per annum will not have to complete an income tax return as long as they have a single employer.

Tax Regime for Inbound Expatriates

According to a law enacted in early 2004, individuals who become Spanish tax residents as a consequence of their international assignment to Spain may choose between being taxed as a Spanish tax resident (according to the personal income tax progressive rates scale with a 43 percent top marginal rate applicable to income above EUR53,407) or as a non-resident (according to the non-resident income tax rules, with flat rates for Spanish-sourced income, 24 percent for work income). This option is effective for the period in which the change of residence takes place and the five years following, provided that the below mentioned requirements are met.

- As from 1 January 2010, the expected remuneration of the employee does not have to exceed the annual amount of EUR600,000 in each of the tax years in which this regime will apply. This requirement applies to those employees that have been seconded to Spain later than 31 December 2009.
- The expatriate has not been a Spanish resident during the 10 years prior to the assignment to Spain.
- The assignment to Spain is derived from a labor contract.
- The services are performed physically in Spain.
- The services are rendered for a Spanish resident company or a permanent establishment in Spain of a non-resident company.
- The work income received for the services is not exempt from taxation under the rules of non-resident income tax.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Spain. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption might not apply if the Spanish entity is his or her economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income (both cash and in-kind remuneration are considered) and Spanish-sourced income and gains from the sale of taxable Spanish assets (such as real estate).

Tax rates

For residents, tax is assessed on taxable income using graduated tax rate tables (combining general tables and autonomous community tables) ranging from 24 percent to 43 percent. Non-residents are taxed at a general flat rate of 24 percent on gross Spanish source income; no deductions or credits are allowed.

Investment income and capital gains for tax residents are taxed at a flat rate of 19 percent for amounts up to EUR60,000 and 21 percent for income exceeding such amounts.

Investment income and capital gains for non-residents are taxed at a flat rate of 19 percent.

Social security

Liability to social security

In principle, all employees working in Spain, regardless of their nationality, must be registered with the Spanish social security administration and the employer must make the corresponding contribution for both employer and employee. The contributions depend on the category of each employee and cannot exceed certain limits.

The rate for employers (plus a professional contingency rate depending on the company activities) is 29.9 percent plus a percentage to cover labor accidents and illness; the percentage depends on the activities. The employee rate (indefinite contracts) is 6.35 percent.

The minimum and maximum social security bases vary depending on an employee's category of employment and educational background. Please note that expatriates, according to international social security agreements and EU applicable regulations, may continue with home-country social security contributions and regimes.

The current maximum monthly social security base is EUR3,198.00.

Compliance obligations

Employee compliance obligations

The due date for tax residents and individuals taxed under the special regime for individual assignees for filing the tax return and making payments is 30 June following the tax year-end, which is 31 December. Specific deadlines for filing tax returns apply to non-residents and Spain does not allow time-extensions to the deadlines; if the return is not filed on time, penalties will be imposed. These penalties will vary depending on whether the tax return is filed after the deadline on a voluntary basis or whether it is filed as a result of a tax audit.

Employer reporting and withholding requirements

For residents, withholdings are calculated according to a progressive scale based on the amount of taxable income that is expected to be paid during the tax year (both cash and in-kind remuneration are considered) and the family status of the employee. For non-residents a flat 24 percent withholding is applied. These withholdings are paid to the Spanish tax authorities on a monthly or quarterly basis and will be deducted from the final tax due on the Spanish tax return.

Other

Work permit/visa requirements

A citizen of any EU member country, or a citizen of any of the members of the EEA or the Swiss Confederations, may enter, leave, move, and/or remain freely in Spanish territory. In addition, such persons have access to any kind of economic activity, as a worker or a professional, self-employed or salaried employee, and may render and receive services.

For any other citizens a work visa must be applied for before the individual enters Spain. The type of visa required will depend on the purpose of the individual's entry into Spain.

Double taxation treaties

Spain has entered into double taxation treaties with more than 60 countries to prevent double taxation and allow cooperation between Spain and foreign tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

There are two main indirect taxes in Spain that could tax sales operations carried out within Spanish Territory depending on the status of the individuals/entity that performs said operations.

- Spanish Value Added Tax (IVA)

Spain imposes a value added tax (IVA) in respect of taxable supplies of goods and services in mainland Spain. The rates are 4 percent or 'super-reduced rate' for basic necessities, 7 percent (8 percent as of 1 July 2010) or 'reduced rate' for food, dwellings, transport, tourism, etc. and 16 percent (18 percent as of 1 July 2010) or 'standard rate' for everything else.

- Spanish Transfer Tax (ITP-TPO)

Transfer tax is levied at a general rate of 7 percent on the second and any subsequent transfers of immovable property and rights thereon, except guarantees. No transfer tax is levied where the transaction is subject to IVA.

Transfer pricing

Spain has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed. Effective from February 2009, Spanish companies have been required to have transfer pricing documents on file and available should the Spanish tax authorities request them. Failure to do so may result in penalties.

Local data privacy requirements

Spain has data privacy laws.

Exchange control

There are no limits on the amount that an individual can bring into or take out of Spain; there are, however, certain reporting requirements.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Spanish pension funds out of the EU Directive 2003/41/CE meeting certain requirements.

Sri Lanka

Introduction

Income tax

Residents are taxed on worldwide income whereas non-residents are taxed on income arising or derived from Sri Lanka.

Tax exemption for non-citizens

The extent of an individual's liability to Sri Lankan tax on his or her earnings depends on his or her residence status in Sri Lanka. Profits and income derived from outside Sri Lanka by a dual citizen will be exempt from income tax in Sri Lanka.

The maximum rate of tax in Sri Lanka is currently 35 percent.

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Key messages

Expatriates are likely to be taxed on employment income relating to their Sri Lankan-sourced income.

Liability to income tax

A person's liability to Sri Lankan tax is determined by his or her residency status. An individual who is physically present in Sri Lanka for 183 days or more during any year of assessment shall be deemed to be resident in Sri Lanka throughout that year of assessment. An individual who has been deemed resident for two or more consecutive years of assessments shall be deemed to be resident until such time as he or she is continuously absent from Sri Lanka for an unbroken period of 365 days (visits to Sri Lanka not exceeding 30 days in total, during this period are ignored). When a person is absent in the way described, he or she will be deemed to be a non-resident from the beginning of the year of assessment in which he or she was absent. Residents are assessable on their worldwide income, whereas non-residents are liable only on their income arising or derived from Sri Lanka. A non-citizen employed in Sri Lanka is also exempt from income tax on income arising and derived outside Sri Lanka.

A time-bound exemption for a period of two years commencing 1 April 2009 is available for foreign currency earned from professional or vocational services rendered by a resident individual in or outside Sri Lanka to a person outside Sri Lanka.

Effective 1 April, 2009, taxable income of a 'qualified individual' which includes any profits earned in foreign currency from employment ('relevant profits') under any 'qualified person' would be taxable at a maximum of 20 percent.

Definition of source

Employment income is generally treated as Sri Lankan-sourced compensation where the individual performs the services while physically located in Sri Lanka.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Sri Lanka. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability.

Tax rates for residents and non-residents are the same.

Social security

The Employees' Provident Fund (EPF) and Employees' Trust Fund (ETF) provide superannuation benefits to employees. Both employers and employees are required to contribute to the EPF. Employees are not required to contribute to the ETF.

Compliance obligations

Tax returns are due by 30 November.

Types of taxable income

In general, all remuneration and benefits received by an employee who is resident in Sri Lanka or for services rendered in Sri Lanka are taxable. Taxable remuneration and benefits includes salary, bonuses, commissions, accommodation allowances, education allowances for children, employer-provided domestic assistance and contributions to medical, dental sickness, and disability plans.

Tax rates

Net taxable income is taxed based on progressive income tax rates ranging from 5 percent to 35 percent. The tax rates and tax thresholds applied to non-residents are the same as those for residents. From the Year of Assessment 2009/2010 income tax brackets have been widened in order to provide relief across the board.

Liability to social security

The regulations regarding the Employees' Provident Fund (EPF), which provides for the payment of superannuation benefits to employees, prescribes that employers make a minimum contribution of 12 percent of an employee's total earnings into the EPF. Employees are also required to contribute a minimum of 8 percent of their total earnings into the EPF. The EPF contribution rules may not, however, apply to expatriate employees who are employed in a managerial, executive, or technical employment, and who are members of a pension scheme or any other fund or scheme established or administered outside Sri Lanka.
The regulations for the Employees' Trust Fund (ETF), which also provides for the payment of superannuation benefits to employees, require employers (but not employees) to contribute 3 percent of their employees' total earnings to the

fund. This requirement may, if applicable, be waived for an employer with regard to its expatriate employees if such expatriates contribute towards a foreign superannuation fund and do not contribute towards a provident fund in Sri Lanka.

Employee compliance obligations

Tax returns are due by 30 November following the tax year-end, which is 31 March. All individuals are required to submit a tax return to the Department of Inland Revenue (DIR) with the exception of individuals whose income comprises solely one or a combination of the following:

- Profits from employment that do not exceed:
  - 420,000 Sri Lanka Rupee (LKR), where such year of assessment is any year of assessment ending on or before 31 March 2009
  - 1,000,000LKR, where such year of assessment is any year of assessment commencing on or after 1 April 2009

  Where Pay-As-You-Earn (PAYE) tax has been deducted by the employer:
  - Dividend income, where tax at a rate of 10 percent has been deducted at source
  - Interest income, where tax at a rate of 10 percent has been deducted at source

If an employee is not within the PAYE scheme, tax payments can be made in quarterly installments on a self-assessment basis.

Other

There are three tiers of VAT rates.

Employer reporting and withholding requirements

Under the PAYE scheme, every employer is required to withhold income tax from the remuneration paid to its employees. Annual returns of employee income and taxes paid in the tax year to 31 March are required to be filed with the DIR on or before 30 April of that year.

Work permit/visa requirements

A visa must be applied for before the individual enters Sri Lanka. The type of visa required will depend on the purpose of the individual's entry into Sri Lanka.

Double taxation treaties

Sri Lanka has entered into double taxation treaties with 36 countries. A foreign tax credit is available where Sri Lanka taxes foreign-sourced income if it is provided for in the relevant double tax treaty. In the absence of a treaty, income net of tax is subject to Sri Lankan tax.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT is levied on the importation of goods into Sri Lanka and the making of taxable supplies in the course of carrying out a taxable activity. The VAT rate levied (5 percent, 15 percent, or 20 percent), depends on nature of the taxable supply.

Transfer pricing

Sri Lanka has a transfer pricing regime; Sri Lanka's transfer pricing regulations do not, however, extend in scope to cover employment benefits.

Local data privacy requirements

Sri Lanka does not currently have data privacy laws.

Exchange control

The Exchange Control Act specifies that foreign personnel engaged in contracts with the government or private organizations in Sri Lanka are permitted to maintain resident current accounts that may be credited with inward remittance and payments made in respect of such contracts. It has also been the practice to permit expatriate employee earnings to be remitted offshore without exchange control permission or restriction.

Non-deductible costs for assignees

Non-deductible costs for both an assignee and an employer will include contributions by an employer to pension funds which are not approved by the Commissioner General of Inland Revenue and insurance premiums paid for policies issued outside Sri Lanka.

Sweden

Introduction

A person's liability to Swedish tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

Extended business travelers are likely to be taxed on employment income relating to their Swedish working days, provided the stay in Sweden exceeds 183 days in a 12-month period.

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Income tax

Liability to income tax

A person's liability to Swedish tax is determined by his or her residence status for tax purposes. A person can be a resident or a non-resident for Swedish tax purposes. A resident of Sweden generally refers to an individual who spends more than six consecutive months in Sweden. A non-resident of Sweden is generally someone who spends less than six consecutive months in Sweden or someone whose stay is longer than six months but is not considered as consecutive. Two to three days' presence in Sweden on a regular basis is sufficient for the stay to be considered consecutive. The general rule is that a person who is a resident of Sweden is assessable on his or her worldwide income. Non-residents are generally assessable on income derived from sources in Sweden. Extended business travelers are likely to be considered non-resident of Sweden for tax purposes if their stay in Sweden does not exceed six months.

Definition of source

Employment income is generally treated as compensation paid by a Swedish employer, hence non-resident extended business travelers will not be taxed in Sweden on their employment income.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file a tax return and pay tax in Sweden. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable tax treaty, there will be no tax liability. Further, under the 183-day rule in the Special Income Tax Act for Non-Residents (SINK), a non-resident individual will not be subject to Swedish income tax, provided his or her income is paid by a non-Swedish employer with no permanent establishment in Sweden and that the stay in Sweden does not exceed 183 days in a 12-month period. Please note that Sweden does not apply the economic employer concept.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Swedish-sourced income and gains from the sale of taxable Swedish assets (such as real estate). Fringe benefits are generally taxable.

Tax rates

For tax residents net taxable income is taxed at graduated rates ranging from approximately 29 percent to 57 percent (the rate varies between different municipalities). Non-residents taxed under SINK are taxed at a flat rate of 25 percent.

Social security

Liability to social security

The Swedish social security system is financed by social security contributions. The employer pays 31.42 percent (no cap) in employer contributions. The base for the contributions is the employees' salary. The contribution includes pension contributions to the public pension system, healthcare, etc. In addition the employee pays Seven percent in pension contributions to the public system, with a cap at an annual income of 412,377 Swedish krona (SEK). Thus, the maximum employee contribution is SEK28,900. The employee's contributions are fully credited against income tax. The Swedish social security system applies to individuals who stay in Sweden for more than 12 months or who have a Swedish employer. Extended business travelers employed by an employer located in an EEA Member State or Switzerland can in most cases remain subject to their home country social security scheme. They can obtain an exemption from paying social security in Sweden, regardless of their citizenship. This exemption is based on the EEA/Swiss rules with respect to posting and/or simultaneous employment. Other extended business travelers may in some cases stay in their home country social security system and also obtain an exemption from paying Swedish social security based on the provisions of a social security treaty signed between their home country and Sweden. If no continued home country social security coverage and no subsequent exemption from social security contributions are available, an extended business traveler will be subject to Swedish employee social security.

Compliance obligations

Employee compliance obligations

Individual income tax returns are due by 2 May following the tax year-end, which is 31 December. Filing an extension until 15 June is possible on application. A non-resident taxed under SINK should not file a tax return, although an application for SINK is required.

Employer reporting and withholding requirements

There is a withholding requirement from employment income. If an individual is taxable in respect of employment income, the payer has a withholding requirement. No withholding applies, however, where the payer is a non-resident with no permanent establishment in Sweden.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Sweden. The type of visa required will depend on the purpose of the individual's entry. Visas are not required for EU nationals and several other nationals. A work permit is required for non-EU nationals.

Double taxation treaties

In addition to Swedish domestic arrangements that provide relief from international double taxation, Sweden has entered into double taxation treaties with more than 60 countries to prevent double taxation and allow cooperation between Sweden and other tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Sweden applies VAT. The general rate is 25 percent. Different rates apply on certain goods and services.

Transfer pricing

Sweden has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Sweden has data privacy laws.

Exchange control

Sweden does not restrict the flow of Swedish or foreign currency into or out of the country. Certain reporting obligations are, however, imposed to control tax evasion and money laundering. All currency transfers made by any person into or out of Sweden of SEK150,000 or more in value must be reported by the transferring bank to the Swedish Tax Agency.

Non-deductible costs for assignees

Generally private living expenses are not deductible. Premiums paid to a private pension policy are deductible with a maximum amount of SEK12,000 per year. The same applies for contributions by the employee to a company pension scheme.

Switzerland

Introduction

An individual's liability to taxation in Switzerland is based on the concept of residence. An individual resident in Switzerland is taxed on his or her worldwide income and wealth. Non-residents are subject to taxation on certain categories of income from Swiss sources.

Switzerland has 26 cantons and the tax rates as well as tax law and practice can vary from canton to canton.

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Key messages

Extended business travelers could be taxed on employment income relating to their Swiss work days unless exempt by treaty.

Income tax

Liability to income tax

A person's liability to Swiss tax is determined by his or her residence status.

Residence is defined as the place where a person stays with the intention of settling permanently and which therefore provides the center of personal and business interests. A person will also be considered resident if he or she remains in Switzerland for a continuous period of more than 90 days (no gainful activity) or 30 days (gainful activity, i.e. employment) in a calendar year. In practice, however, it is likely that most business travelers to Switzerland will be considered as non-residents or treaty exempt.

For non-residents, the income relating to Swiss duties is in most cases subject to a final withholding tax (except where an exemption from withholding tax was filed). The withholding tax is calculated monthly based on the gross monthly salary (including any benefits) with the actual rate dependent on marital status, number of dependants, canton and if church tax is applicable. Each of Switzerland's 26 cantons has a different withholding tax tariff. For business travelers to Switzerland the withholding tax tariff from the canton where they are registered or the canton where the employer is based is normally applicable.

Individuals living in countries bordering Switzerland may be taxed differently under special tax treaty provisions applicable to cross-border workers. Each situation would have to be looked at individually.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts a non-resident employee from Swiss withholding tax. Each case needs to be considered separately based on facts and circumstances.

To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will most likely not apply if the Swiss entity is his or her economic/effective employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income, as well as any other benefits paid to or on behalf of the individual. In some cases, however, the travel costs to Switzerland as well as Swiss accommodation costs can be exempt from Swiss taxation.

Tax rates

Tax rates vary from canton to canton but are progressive and depend on individual personal circumstances (such as marital status, number of dependants).

Social security

Liability to social security

Extended business travelers who are EU/EEA citizens employed by an employer located in an EU/EEA member state can in most cases remain subject to their home country social security scheme. This exemption is based on the EU/EEA/Swiss rules with respect to posting and/or simultaneous employment.

Other extended business travelers may in some cases stay in their home country social security system and also obtain an exemption from paying Swiss social security based on the provisions of a social security treaty signed between their home country and Switzerland. Switzerland has concluded social security treaties with more than 30 countries.

If no continued home country social security coverage and no subsequent exemption from social security contributions are available, an extended business traveler could be subject to Swiss social security as set out below.

Individuals having a gainful activity in Switzerland are required to contribute to the mandatory old age and disability insurance scheme. Employers must also contribute. The contribution is 10.1 percent of total remuneration (unlimited) of which 5.05 percent is charged to the employee and 5.05 percent to the employer. Individuals are also subject to mandatory unemployment insurance. The contributions are 2 percent of remuneration up to an annual salary of 126,000 Swiss francs (CHF). Retirement and disability pensions are compulsory for individuals with annual earnings between CHF23,940 and CHF82,080. The employer's contributions must be at least equal to those of the employee. Rates vary according to age. Most pension plans give additional pension coverage in excess of these minimum requirements. Individuals are also subject to mandatory occupational and non-occupational accident insurance premiums. Each individual has to obtain Swiss health insurance which is not linked to the employer.

Compliance obligations

Employee compliance obligations

For residents: In most cantons the tax returns are due by 31 March following the tax year-end, which is the calendar year. An extension can be filed to extend the deadline until 30 June and in some cantons even extend until 30 November. Tax returns are required to be filed by residents only (mandatory joint filing). In case the individual is subject to withholding tax (no Swiss national or no C-Permit holder) he or she has only to file a return if the annualized gross income exceeds CHF120,000 (this is the figure for Canton Zurich but limits can vary between cantons).

Non-residents normally do not have to file a return if the income was subject to withholding tax. There is, however, an option to file a voluntary withholding tax adjustment request (to claim special deductions or adjustment of the withholding tax tariff). This request has to be filed by 31 March following the tax year (no extension possible).

Employer reporting and withholding requirements

Withholding tax on employment income is covered under the withholding tax (Quellensteuer) system. The employer is obliged to report on a monthly or quarterly base the gross salary as well as the deducted withholding tax to the authorities.

Other

Work permit/visa requirements

When the bilateral treaty between Switzerland and the EU came into force in 2002, the laws on work and residency permits changed considerably. There are now two distinct categories of foreigners living and working in Switzerland: EU citizens, who in many ways have similar rights to Swiss citizens; and non-EU citizens, for whom it is still difficult to obtain work and/or residency permits.

Advice should be taken in respect of EU nationals from countries who have recently been admitted to the EU as they may not have the same work and residency rights as those nationals from original EU countries.

Double taxation treaties

Switzerland has entered into double taxation treaties with more than 90 countries to prevent double taxation and allow cooperation between Switzerland and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Switzerland levies value added tax at a standard rate of 7.6 percent. Certain products are exempt from this tax (such as healthcare, social security, insurance, and export of goods); others are taxed at a reduced rate of 2.4 percent. Finally, any overnight stays at a hotel and other accommodation will be taxed at a rate of 3.6 percent.

Transfer pricing

With respect to transfer pricing, Switzerland has embraced the internationally widely recognized arm's-length principle. Transfer pricing issues could arise if, for example, an employee provides a service to the benefit of a company in one jurisdiction while the respective costs are borne by an entity in a different jurisdiction. The possible consequences and remedies to such situations depend on the nature and complexity of the services performed.

Local data privacy requirements

Switzerland has data privacy laws.

Exchange control

Switzerland has no currency restrictions.

Non-deductible costs for extended business travelers

As the withholding tax is calculated on the gross salary, any other employee social security contributions/pension contributions, etc, will not be allowed as a deduction.

Taiwan

Introduction

Income tax

Individuals paid by foreign employers who remain in Taiwan for 90 days or less in a calendar year are not taxed.

A 18 percent withholding tax for 2010 (20 percent for 2009) applies to the salary income of non-residents paid by Taiwanese employers.

The tax legislation of Taiwan for individuals is based on source principles. Generally, only income derived from activities or work carried out in Taiwan, or other income from sources in Taiwan, is subject to tax.

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Key messages

Extended business travelers who are in Taiwan for 90 days or less will either be subject to no tax in Taiwan (if the expatriate's compensation is paid by a foreign employer with no recharge to a Taiwanese enterprise) or there will be an 18 percent withholding tax for 2010 (20 percent for 2009) if the expatriate's compensation is paid by a Taiwanese enterprise.

Liability to income tax

A person's liability to Taiwanese tax is determined by his or her residence status. An individual is considered resident if he or she remains in Taiwan for 183 days or more and he or she will be taxed on remuneration received for services rendered in Taiwan. An individual is considered to be non-resident if he or she remains in Taiwan for 90 days or less in a calendar year. There is no tax payable if the expatriate's compensation is paid by a foreign employer with no recharge to a Taiwanese enterprise. If, however, the compensation is paid by a Taiwanese enterprise or charged back to a Taiwanese enterprise from a foreign employer, a 18 percent withholding tax for 2010 (20 percent for 2009) applies on the compensation for services rendered in Taiwan. An individual is also considered to be non-resident if he or she remains in Taiwan for more than 90 days but less than 183 days. The individual will be taxable on remuneration received for services rendered in Taiwan and a 18 percent withholding tax for 2010 (20 percent for 2009) will apply. A non-resident tax return should be filed.

Definition of source

Employment income is generally treated as Taiwanese-sourced compensation where the individual performs the services while physically located in Taiwan.

Tax trigger points

Where an individual remains in Taiwan for 90 days or less, he or she may remain exempt from Taiwanese tax to the extent that he or she is paid by a foreign employer with no recharge to a Taiwanese enterprise.

Non-residents are subject to 18 percent tax on their gross salary income for 2010 (20 percent for 2009).

Social security

Compliance obligations

Tax returns must be filed by 31 May.

Other

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income. There is no capital gains tax in Taiwan.

Tax rates

A resident's net taxable income is taxed at graduated rates ranging from 6 percent to 40 percent for 2010 (from 6 percent to 40 percent for 2009). The maximum tax rate is currently 40 percent on net taxable income earned over 4,230,001 Taiwan dollars (TWD) for 2010 (TWD4,090,001 for 2009). For non-residents subject to tax in Taiwan, the applicable tax rate for the salary income will be fixed at 18 percent for 2010 (20 percent for 2009) of gross income.

Liability to social security

A Taiwanese enterprise normally makes a contribution of 6 percent of earnings into a retirement fund for its employees. There is no requirement for Taiwan enterprises to contribute to a retirement fund for expatriates if the expatriate's compensation is paid by a foreign employer, with no recharge to a Taiwanese enterprise. National health insurance contributions are required to be made by the employer and employee at 4.64 percent and 1.365 percent of gross salary, respectively. The insurable amount is capped at a ceiling. Labor insurance premium contributions are also required to be made by the employer and employee. The insurance rate is currently 7.5 percent of gross salary.
The insurable amount is capped at a ceiling.

Employee compliance obligations

Income tax returns must be filed and any tax due paid by 31 May of the following year of assessment (being the year ended 31 December). No extension is granted and interest is charged on any underpaid tax after 31 May. There are also penalties for omissions and failure to file a tax return. The tax compliance rules are the same for residents and non-residents.

Employer compliance obligations

For a taxpayer receiving salaried income, the Taiwanese employer must withhold tax payable at the time of payment as per the prescribed rates and withholding procedures, and report and pay the tax withheld in accordance with the provisions of the tax law. Taiwanese employers are not subject to payroll tax.

Work permit/visa requirements

Foreign nationals and overseas Chinese citizens must apply for a visa before entering Taiwan. There are three main types of visas: landing, visitor and resident visas. The type of visa required will depend on the purpose of the individual's entry into Taiwan.

Double taxation treaties

In addition to Taiwan's domestic arrangements that provide relief from international double taxation, Taiwan has entered into double taxation treaties with 17 countries to prevent double taxation and allow cooperation between Taiwan and overseas tax authorities in enforcing their respective tax laws. The qualifying expatriate is required to submit the supporting documents at the time of filing the annual income tax return.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Business tax, in the form of GBRT and VAT, is imposed on the importation of goods into Taiwan and the sale of goods and services within Taiwan. The current rate for GBRT and VAT is 5 percent. In certain circumstances, the rates may be reduced to 2 percent or 0 percent. Other indirect taxes include Customs Duty, Stamp Duty, and Land Tax.

Transfer pricing

Taiwan has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Taiwan has data privacy laws.

Exchange control

There are generally no currency restrictions for inbound and outbound transfers by residents of Taiwan. Approval from the authorities is, however, required if the annual amount of inbound and outbound remittance made by a resident exceeds USD5 million.

Non-deductible costs for assignees

Non-deductible costs for both an assignee and an employer include contributions to non-Taiwan pension funds.

Thailand

Introduction

Income tax

Thailand imposes personal income tax on the Thai-sourced income of both residents and non-residents. Residents are also taxed on foreign sourced income to the extent that it is paid in or remitted to Thailand in the year it is received.

A person's liability to Thai tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her.

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Key messages

Every person, resident or non-resident, is taxed on employment income derived from employment or business carried on in Thailand regardless of whether such income is paid in or outside Thailand.

Liability to income tax

A person's liability to Thai tax is determined by both residence and source rules. A resident of Thailand for tax purposes refers to an individual who is present in Thailand for a total of at least 180 days in a tax year (being the calendar year). The general rule is that a person who is either a resident or non-resident of Thailand is assessable on income derived from sources in Thailand. A resident is also subject to Thai tax on foreign-sourced income, but only if that income is remitted to Thailand in the same year it is received. Extended business travelers are considered non-residents of Thailand for tax purposes unless they are present in Thailand for more than 180 days in the tax year.

Definition of source

Employment income is generally treated as Thai-sourced compensation where the individual performs the services in Thailand and/or performs the services for the business of the employer in Thailand.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Thailand. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there may be no tax liability.

Types of taxable income

Assessable income includes income from employment including benefits either in cash or in-kind. There are limited categories of income that are specifically excluded from assessable income by virtue of Section 42 of the Revenue Code.

The maximum tax rate applies to income earned over 4 million Thai baht (THB).

Social security

Compliance obligations

Tax returns are due by 31 March.

Other

Thailand has an extensive tax treaty network.

Tax rates

Net taxable income is taxed at progressive rates up to 37 percent. The maximum tax rate is currently 37 percent on income over THB4 million in the case of both residents and non-residents.

Liability to Social Security

Resident and non-resident employees are required to make contributions to Thailand's social security fund. Contributions to the social security fund are made by employees and employers in equal proportions. The present rate of contribution to be made by each party is 5 percent of the employee's salary, up to a maximum amount of THB750 per month. The contributions must be deducted by the employer at source and remitted to the social security fund on a monthly basis.

Employee compliance obligations

Tax returns are due by 31 March following the tax year-end, which is 31 December.

Employer reporting and withholding requirements

Employers are required to withhold income tax from salaries and benefits paid to employees. A monthly withholding tax return must be filed with the tax authorities by the employer by the 7th of the following month. Employers are also required to file an annual withholding tax return with the tax authorities by the end of February following the tax year-end, which summarizes total income paid and tax withheld for the previous tax year.

Work permit/visa requirements

A foreigner entering Thailand to work must obtain a non-immigrant visa from the Royal Thai Embassy or Consulate. This visa entitles the foreigner to apply for a work permit.

Double taxation treaties

Thailand has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow cooperation between Thailand and overseas tax authorities in enforcing their respective tax laws. Claims for double tax relief are not required to be submitted. It is the responsibility of the taxpayer to determine whether the relief is applicable.

Permanent establishment implications

A permanent establishment may potentially be created as a result of extended business travel but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT is applicable at 7 percent in respect of taxable supplies. VAT registration is not required in respect of employment income.

Transfer pricing

The Thai Revenue Code empowers the tax authority to assess deemed income if the services are provided without consideration. A transfer pricing implication could arise if the employee is being paid by an entity in Thailand but performing services for the benefit of another entity. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Thailand has data privacy laws.

Exchange controls

Thailand has foreign exchange control laws which, among other measures, limit the amount of Thai currency that a traveler may take out of Thailand to THB50,000. Authorized banks, however, are allowed to conduct the majority of foreign exchange transactions without Government control.

Non-deductible costs for assignees

Non-deductible costs for assignees include payments that are not for or related to the employer's business.

Turkey

Introduction

A person's liability to Turkish tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income attributable to their work in Turkey.

Income tax

Liability to income tax

A person's liability to Turkish tax is determined by his or her residence status. A person can be resident or non-resident for Turkish tax purposes. Individuals who are domiciled in Turkey or who stay in Turkey for more than six months in a calendar year are considered to be resident taxpayers. On the other hand, for an individual to be considered as non-resident, one of the following criteria should be met:

- He or she is not domiciled in Turkey
- His or her presence in Turkey is less than six months in a calendar year
- His or her presence in Turkey is for a specific and temporary assignment, even if he or she has stayed for more than six months in a calendar year in Turkey

The general rule is that a person who is a resident of Turkey is taxable on his or her worldwide income and a non-resident is taxable on only his or her Turkish-sourced income. Earnings from employment are considered to be Turkish-sourced income if either the employment services are rendered in Turkey or the remuneration is borne by a Turkish employer.

Tax trigger points

In determining the tax residency status, temporary departure dates are taken into consideration in the calculation of the six-month period; accordingly, these dates do not break the residency status of the employee. There is no threshold/ minimum number of days that exempts the employee from the requirements to file and pay tax in Turkey.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Turkish-sourced income other than employment income, if there is any.

Tax rates

In January 2010, Turkey's Constitutional Court effectively repealed the article of the Turkish Income Tax Code governing the taxation of all types of income including wage income, to the detriment of the economic position of wage earners. In 2006, an income tax rate of 35 percent was introduced and no precautions were taken to secure the economic position of wage earners, as provided for under the terms of Turkey's Constitution. The ruling of the Court was published in the country's Official Gazette dated 8 January 2010 and will take effect on 8 July 2010. Consequently, new legislation will be formulated in a way that takes into account the concerns of the Court, as the tax code provision in question is being abolished and thus the new provision will differentiate income tax rates for wage income and income other than wage. To the best of our knowledge (based on latest version of the draft), a draft bill proposes that the following progressive tax rates are applicable to individuals' wage income for 2010 (applicable from 1 January 2010), regardless of residency status; the brackets may be changed during the parliamentary phases.

Tax Bracket	Tax Rate
Up to TRY8,800	15 percent
Between TRY8,801 and TRY22,000	20 percent
Between TRY22,001 and TRY76,250	27 percent
Above TRY76,251	35 percent

Source: KPMG in Turkey June 2010

The draft will not have a retroactive effect to cover the 2009 tax year.

The following progressive tax rates are applicable to individuals' income other than wage for 2010, regardless of residency status.

Up to TRY8,800	15 percent
Between TRY8,801 and TRY22,000	20 percent
Between TRY22,001 and TRY50,000	27 percent
Above TRY50,001	35 percent

Source: KPMG in Turkey June 2010

Social security

Liability to social security

According to Turkish Social Security Law, individuals should automatically become insured at the time that an employee is employed. Social security contributions are calculated on the basis of monthly wages and are paid jointly by the employee and the employer at 14 percent and 19.5 percent respectively. The rates are applied to total gross salaries, wages and bonuses up to a maximum monthly amount, which is 4,738.50 Turkish lira (TRY) for the first half of 2010 and TRY4,943.40 for the second half of 2010. Please note that the employee social security contribution is tax-exempt for income tax purposes. In addition, unemployment insurance applies at 1 percent and 2 percent for the employee and employer respectively.

Compliance obligations

Employee compliance obligations

If the law requires a tax return to be filed, the responsibility for its filing and the payment of taxes rest with the individual. The income tax return should be filed by 25 March in the following year, and taxes are payable in two equal installments in March and July. If the individual is leaving Turkey, the tax return should be filed and the tax payment made within 15 days prior to the date of departure.

Employer reporting and withholding requirements

If the employment costs of an employee are borne by a Turkish employer, the employee is required to be registered on the payroll of the Turkish company and his or her employment income is subject to withholding and social security taxation. A monthly withholding tax return is filed on the 23rd of the following month and the taxes are paid on the 26th of the following month. In accordance with the tax legislation, the withholding tax is regarded as final taxation.

Other

Work permit/visa requirements

A work permit must be received before the date on which the individual starts to work in Turkey. Initially an application will be filed with the Ministry of Labor Affairs. Additionally, in the case of a first-time work-permit application, the work-permit request should also be filed by the employee in person with the Turkish Consulate in his or her home country.

Double taxation treaties

Turkey has entered into double taxation treaties with 71 countries to prevent double taxation and allow cooperation between Turkey and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

A permanent establishment can generally be defined as a fixed business place or a permanent representative through which the business profits are derived in the source country by non-residents of that country. If there is a permanent establishment, the business profits of the non-resident entity can also be taxed in the source country. The important factors in determining the existence of a permanent representative are whether the individual is dependent on the non-resident entity and whether that person is authorized to conclude contracts in the name of, or on behalf of, the non-resident entity.

Indirect taxes

Indirect taxes applicable in Turkey are stamp tax, motor vehicle tax, banking and insurance transactions tax (BITT), inheritance and gift tax, property taxes, communication tax and special Consumption Tax. The stamp tax rate applied on employment income through the payroll mechanism is 0.6 percent.

Transfer pricing

Turkey has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity and is a related person of the entity at the same time.

Local data privacy requirements

A draft data privacy law is currently awaiting the approval of the Turkish Parliament. Accordingly, Turkey has not yet implemented data privacy laws.

Exchange control

Turkey does not restrict the flow of Turkish or foreign currency into or out of the country. Additionally, there is no reporting requirement regardless of the amount of the transfer.

Non-deductible costs for assignees

The personal expenses of the assignee, which are not taxed through withholding, are not deductible from the tax base.

Uganda

Introduction

A person's liability to tax in Uganda is based on both residence and source of income. Generally a person is considered resident if he or she has a permanent home in Uganda or stays in the country for an aggregate period of 183 days during any tax year. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

The highest tax bracket rate is 30 percent.

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Extended business travelers are likely to be taxed only on the income that is derived from sources in Uganda, which may be from employment, property or business.

Income tax

Liability to income tax

A person's liability to tax in Uganda is determined by his or her residence status and the source of his or her income. An individual is considered to be resident for a year of income if that individual:

- Has a permanent home in Uganda;
- Is present in Uganda for a period of 183 days or more (whether continuous or not) in any 12-month period that commences or ends during the year of income; or
- Was present in Uganda for periods averaging more than 122 days during the year of income and in each of the two preceding years of income.

Non-residents are generally assessable on income derived directly or indirectly from sources in Uganda.

Extended business travelers are likely to be considered non-residents of Uganda for tax purposes unless they stay in Uganda for more than six months.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee deriving income from Uganda from the requirements to file and pay tax in Uganda. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Ugandan entity is his or her economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed in Uganda are as follows: employment income sourced from Uganda (including non-cash benefits); business income; and property income (such as rent, royalties, dividends, natural resource payments, etc.) derived from Uganda.

Tax rates for individuals: Annual

Resident rates

Annual chargeable Income	Rate of Tax
Not Exceeding UGX1,560,000	Nil
Exceeding UGX1,560,000 but not exceeding UGX2,820,000	10 percent of the amount by which chargeable income exceeds UGX1,560,000
Exceeding UGX2,820,000 but not exceeding UGX4,920,000	UGX126,000 + 20 percent of the amount by which chargeable income exceeds UGX2,820,000
Exceeding UGX4,920,000	UGX546,000 + 30 percent of the amount by which chargeable income exceeds UGX4,920,000

Non-resident rates

Annual chargeable Income	Rate of Tax
Not exceeding UGX2,820,000	10 percent
Exceeding UGX2,820,000 but not exceeding UGX4,920,000	UGX282,000 + 20 percent of the amount by which chargeable income exceeds UGX2,820,000
Exceeding UGX4,920,000	UGX702,000 + 30 percent of the amount by which chargeable income exceeds UGX4,920,000

Monthly rates for residents

Annual chargeable Income	Rate of Tax
Not exceeding UGX130,000	Nil
Exceeding UGX130,000 but not exceeding UGX235,000	10 percent of the amount in excess of UGX130,000
Exceeding UGX235,000 but not exceeding UGX410,000	UGX10,500 + 20 percent of the amount in excess of UGX235,000
Exceeding UGX410,000	UGX45,500 + 30 percent of the amount in excess of UGX410,000

Source: KPMG in Uganda June 2010

Social security

Liability to social security

All employers with more than five employees are required to register with the National Social Security Fund (NSSF). Mandatory standard contributions are 15 percent of gross cash wages, with the employer contributing 10 percent and employee 5 percent. Non-residents are not eligible to contribute to NSSF. Non-residents are defined for NSSF purposes as those persons who plan to stay in Uganda for less than three years. It should, however, be noted that the employer may be required to make a special contribution of 10 percent to the NSSF in respect of the non-resident employees. A person who is not ordinarily resident in Uganda and has similar retirement benefit schemes in his or her home country may request an exemption from the Managing Director of NSSF.

Compliance obligations

Employee compliance obligations

Individual employees whose only source of income is employment from a single employer are not required to file tax returns in Uganda. The responsibility of filing monthly PAYE returns lies with the employer.

Employer reporting and withholding requirements

The Income Tax Act requires the employer to withhold tax each month from gross compensation due to the employee.

Withholding tax from employment income is administered under the Pay-As-You-Earn (PAYE) system.

The tax is deducted based on the monthly individual tax rates indicated above. The tax withheld is payable to Uganda Revenue Authority by the 15th of the month following that of deduction, and must be accompanied by a PAYE return.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Uganda. The type of visa required will depend on the purpose of the individual's entry into Uganda.

Double taxation treaties

Uganda has eight double tax treaties, with the following countries: Denmark, India, Italy, Mauritius, the Netherlands, Norway, South Africa, and the United Kingdom.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Value Added Tax is applicable at a standard rate of 18 percent on taxable supplies. Certain supplies may be exempt or zero rated, as specified in the VAT Act.

Withholding taxes also apply in respect of payment to non-residents without a permanent establishment on the following payments: dividends, interest, management fees, royalties, and consultancy fees, at a rate of 15 percent. This rate may vary in accordance with a double tax treaty.

Transfer pricing

Uganda has no specific transfer pricing rules. The tax law, however, gives the commissioner powers to intervene in transactions with a transfer pricing implication. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed. In this case the commissioner has power to reallocate the income or the expense in question to reflect the chargeable income at arm's-length. Transactions between related parities are normally checked for transfer pricing.

Local data privacy requirements

Uganda does not have defined data privacy laws.

Exchange control

The foreign exchange market is liberalized in Uganda; there are no specific restrictions regarding inflow and outflow of foreign currency.

Non-deductible costs for assignees

Employees' income, allowances and benefits in Uganda are in general taxable in Uganda, unless they are specifically exempted by the Act.

Ukraine

Introduction

Individuals are subject to Ukrainian income tax as either tax residents or tax non-residents. Residents are subject to income tax at 15 percent on their worldwide income, whereas non-residents are subject to income tax at 30 percent only on Ukrainian-sourced income which, among other things, includes the remuneration received by an individual for the performance of any activities in Ukraine regardless of whether the remuneration is paid by a resident or a non-resident company.

If double tax treaties concluded by Ukraine provide for taxation rules other than those provided in the domestic legislation, provisions of the treaties should generally prevail.

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Key messages

The Ukrainian immigration rules have recently changed and currently are subject to varying interpretations. It is advisable for business travelers to clarify these issues with professional advisors prior to committing to extended work periods in Ukraine.

Income tax

Liability to income tax

An individual's tax liability in Ukraine depends on whether the individual is viewed as a Ukrainian tax resident or a non-resident. Whereas for Ukrainian tax residents a flat tax rate of 15 percent applies, non-residents are taxed at a rate of 30 percent.

The concept of tax residency incorporated in Ukrainian law is similar to that of most international double taxation agreements. Specifically, an individual is considered a Ukrainian tax resident if he or she has a domicile in Ukraine. If there is also a domicile in another state, an individual is qualified as a tax resident in Ukraine if he or she has a permanent place of residence in Ukraine. If a permanent place of residence is also available in another state, an individual becomes a tax resident in Ukraine if he or she has a center of vital interests in Ukraine.

In case it is not possible to determine the center of vital interests of an individual, or in case he or she does not have a permanent place of residence in any country, the tax residency in Ukraine is obtained if the individual is present in Ukraine for more than 182 days during a tax year which, in Ukraine, coincides with the calendar year.

A foreign individual who qualifies as a Ukrainian tax resident should confirm his or her residency status with the local tax authorities by the end of the reporting tax year by submitting a relevant application.

Tax trigger points

Under domestic law, tax liability is triggered upon performing any compensated work in Ukraine and/or receiving personal income (interest, dividends, rental income, etc.) from Ukrainian sources. If, however, a relevant double tax treaty provides for different taxation rules, the provisions of the treaty will prevail.

Types of taxable income

In general, taxable income includes any income received in cash, in kind, and in the form of a material benefit. For extended business travelers, the types of income that are generally taxed are employment income and any Ukrainian-sourced income. Fringe benefits such as housing, business automobile, and moving expenses may be tax exempt if they are properly structured.

Tax rates

Ukrainian tax residents are taxed at a flat tax rate of 15 percent. Non residents are taxed at a 30 percent tax rate.

Social security

Liability to social security

Generally, according to the provisions of Ukrainian legislation, an individual becomes enrolled in the state pension and social security system on signing an employment agreement with his or her Ukrainian employer. Starting from the date of signing, the individual's remuneration received as a result of fulfillment of his or her employment functions under the employment agreement is subject to contributions to the relevant state pension and social security funds in Ukraine. These contributions are calculated by the employer, who is also responsible for withholding and remittance of these contributions to the state budget, along with payments of the remuneration. Payment of these contributions cease if the employment is terminated.

The total Ukrainian pension and social security contributions due from an individual per month constitute 3.6 percent of the monthly gross remuneration. The taxable base for these contributions is currently capped at 13,035 Ukrainian hryvnia (UAH) (approximately EUR,1200 at the current exchange rate) per month. If remuneration exceeds this threshold, the contributions will be calculated based on the UAH13,035 cap rather than on the actual gross amount.

Remuneration paid by a non-resident company to an individual working in Ukraine is not subject to pension and social security contributions in Ukraine.

Compliance obligations

Employee compliance obligations

The reporting year in Ukraine is the calendar year.

Income paid by a Ukrainian entity is taxed at source of payment. Such income is not subject to additional reporting in Ukraine.

Income received from a non-Ukrainian entity is subject to tax based on the tax return, which is due on 31 March of the year following the tax year, or 60 calendar days before departure from Ukraine, whichever occurs earlier. The tax is due on 10 April of the year following the reporting year or before departure from Ukraine.

Employer reporting and withholding requirements

The tax withholding and reporting requirements with respect to the employment remuneration payable to individuals in Ukraine arise only for employers that are Ukrainian entities.

Non-resident entities that pay compensation for services to individuals working in Ukraine are not subject to tax withholding and reporting requirements in Ukraine.

Other

Work permit/visa requirements

Under Ukrainian law, all foreign nationals have to obtain work permits prior to their work in Ukraine. There are, however, certain exceptions which, among other things, relate to foreign individuals working in a local representative office of a foreign company.

As a general rule, foreign individuals coming to Ukraine should have a relevant type of visa. There are certain exceptions with regard to visa requirement. Citizens of the EU and of certain other countries (including Canada, Iceland, Japan, Monaco, Norway, Romania, San Marino, the United States, and Vatican City) are allowed to enter Ukraine for a period of up to 90 days without a visa. Generally, visas are granted by Ukrainian consulates abroad.

Also, there are certain limitations regarding the permitted period of stay in Ukraine for a foreign individual. The Ukrainian immigration rules have recently changed and currently are subject to varying interpretations. It is advisable for business travelers to clarify these issues with professional advisors prior to committing to extended work periods in Ukraine.

Double taxation treaties

According to Ukrainian legislation, if an international double tax treaty concluded by Ukraine provides for other taxation rules than those provided in the domestic legislation, provisions of the double tax treaty would prevail. Currently Ukraine has double tax treaties with 64 countries.

Permanent establishment implications

There is a potential that a permanent establishment could be created in Ukraine as a result of extended business travel but, if structured properly, this risk may generally be mitigated.

Indirect taxes

In Ukraine VAT at 20 percent is levied on the domestic supply of goods and services and on the importation of goods. Export supplies are zero rated.

Excise duty and customs duties are also applicable in Ukraine.

Transfer pricing

Transactions between related parties are subject to transfer pricing rules introduced by the Corporate Profit Tax Law, which are as follows:

- Income received by a taxpayer from transactions with a related party is determined based on contractual prices which cannot be less that the usual market prices on the date of the transaction.
- A taxpayer's expenses in connection with the purchase of goods or services from a related entity are determined based on contractual prices which cannot exceed the usual market prices on the date of the transaction.
- If a service fee is paid to a related party, it is tax deductible only if there is documentary evidence that the fee was paid in respect of services actually rendered.

Local data privacy requirements

This issue is not applicable for Ukraine.

Exchange control

The main currency control rules applicable for legal entities in Ukraine are as follows:

- Goods/services imported by a Ukrainian entity or money that is due for goods/services exported from Ukraine have to be actually delivered to/paid for by a Ukrainian counterpart within 180 calendar days of the payment for foreign goods or actual export of Ukrainian goods/services abroad.
- Payments abroad under certain transactions (supply of services, transfer of intellectual property rights, redemptions of promissory notes) are subject to bank control. A Ukrainian company transferring money under a contract where the price exceeds 100,000 euros (EUR) (or its equivalent in another currency) should receive the conclusion of the relevant authority in Ukraine confirming that the contract price corresponds to market prices.

Non-deductible costs for assignees

Personal costs would not be tax deductible for the assignee with the exception of the following (subject to limitations):

- Donations to charitable organizations registered in Ukraine, provided that their total amount is not less than 2 percent and not more than 5 percent of taxable income in the tax year.
- Expenses on payment for education for the individual and/or family members in Ukrainian universities.
- Life and pension insurance premiums paid by an individual under agreements with insurance companies and non-state pension funds registered in Ukraine.
- Interest paid related to housing mortgage loans obtained with a Ukrainian bank.

United Kingdom

Introduction

An individual's liability to income tax in the United Kingdom (UK) is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their UK work days.

Income tax

Liability to income tax

Residence

An individual may be considered resident in the UK if:

- He or she goes to the UK for the purpose of employment and the anticipated stay is at least two years. Tax residence applies for the whole of the period spent in the UK from the date of arrival to the date of departure;
- He or she is present in the UK for 183 days or more in the tax year concerned and the above does not apply to him or her (tax residence applies for the whole tax year); or
- He or she visits the UK each year and, over a four-year period, the visits average more than 90 days per year. Tax residence would commence at the beginning of the fifth tax year unless the pattern of visits was known at the outset or some other time before the fifth year, in which case it would commence at the beginning of the tax year in which such pattern of visits is anticipated.

When counting days spent in the UK for the above tests for periods up to 5 April 2008, days of arrival in and departure from the UK are ignored. When counting days in any period after 5 April 2008, in most circumstances, any day when the individual is present at midnight has to be included. If the individual is present at midnight merely because he or she is transiting through the UK from a previous location outside the UK to another location outside the UK, it might be permissible to exclude the day from the day count, depending on the facts of the situation.

Ordinary Residence

A resident may be classified as either ordinarily resident (that is, a longer-term resident) or not ordinarily resident. To be ordinarily resident, the employee would generally have to be in the UK for three years, or purchase property in the UK, or occupy property under a lease of three years or more.

Extended business travelers are unlikely be regarded as ordinarily resident unless their early business trips become an assignment or they spend more than 90 days per year in the UK over an extended period.

Most extended business travelers are most likely to be regarded as not resident and not ordinarily resident.

Domicile

A person's domicile is, broadly, his or her permanent homeland. The majority of foreign nationals employed by foreign employers who are extended business travelers or working on secondment to the UK will not be regarded as domiciled in the UK.

Significance of Residence and Domicile

A non-UK resident is taxable on UK-sourced income.

Resident but not ordinarily resident and non-UK-domiciled individuals are taxable on UK-sourced income but can claim to be taxable on their foreign income on the remittance basis. This means that their income would then be taxable in the UK only if remitted to the UK.

Resident and ordinarily resident but non-UK-domiciled individuals would be taxable on worldwide earnings if any duties were performed in the UK. They could claim to be taxable on their foreign investment income on the remittance basis.

Definition of Source

Employment income is generally treated as UK-sourced compensation where the employee performs the services while physically located in the UK. Salary, etc. is apportioned between UK and non-UK duties based on work days.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file tax returns and pay tax in the UK.

To the extent that the individual qualifies for relief in terms of the employment income article of an applicable double tax treaty, there will be no UK tax liability. The treaty exemption will not apply if the UK entity is viewed as his or her economic employer. In general, if an employee has a foreign employer, the UK will not take the economic employer position if the employee is in the UK for up to 60 days.

Types of taxable income

All earnings, whether in cash or in the form of a benefit in kind, made by an employer to an employee, are taxable unless specifically exempted. Typically, travel expenses to and from the UK and accommodation would not be taxable for an extended business traveler.

Tax rates

For the year ending 5 April 2011 earnings are taxed at 20 percent on the first British pounds (GBP) 37,400 of taxable income, 40 percent on the next GBP112,600 of income. An additional rate band of 50 percent applies to the remainder.

Social security

Liability to social security

Employers and employees who are liable to social security in the UK pay it with no upper limit. It is, however, likely that most extended business travelers would not be liable to UK social security. This could be for a number of reasons including:

- They remain in their home country's social security system under the EEA rules.
- They remain in their home country's social security system under a reciprocal agreement with the UK.
- They arrive from a non-agreement country and are exempt from UK social security for the first 52 weeks they are in the UK.

Compliance obligations

Employee compliance obligations

Tax returns that are filed electronically are due by 31 January following the tax year-end, which is 5 April. Paper returns have an earlier deadline of 31 October following the tax year-end.

If treaty relief applies, and the employer has entered into a short-term business visitors agreement with Her Majesty's Revenue & Customs (HMRC), individual tax returns do not have to be filed merely to claim the treaty relief, and the Pay-As-You-Earn (PAYE) withholding obligations can be relaxed.

Employer reporting and withholding requirements

Employment income is subject to tax and social security withholding under the PAYE system. If an individual is taxable in respect of employment income, the obligation to withhold rests with either the employer or, if the employer is not operating withholding, it rests with the 'host' employer.

If a short-term business visitor's agreement is obtained, these withholding obligations can be relaxed with HMRC's agreement.

Other

Work permit/visa requirements

Citizens of pre-2004 EEA (including EU) member states and Swiss nationals do not require permission to work, reside or visit the UK.

Citizens of the EU Member States who joined in May 2004 (except Malta and Cyprus) do not require work permission. They are, however, usually required to register under the workers registration scheme within one month of starting employment (unless they are exempt). They are all allowed to visit as business visitors without obtaining prior entry clearance.

Citizens of Bulgaria and Romania will need to apply for work permits (unless exempt) and apply for accession worker cards before they commence employment. Bulgarians and Romanians can enter the UK as business visitors without obtaining prior entry clearance.

All other nationals will require permission to work in the UK as well as entry clearance (visa). If the individual is required to visit the UK only as an extended business traveler he or she may enter the UK without entry clearance, depending on his or her nationality and whether the individual has an adverse immigration history.

Double taxation treaties

In addition to the UK's domestic legislation that provides relief from international double taxation, the UK has entered into double taxation treaties with more than 100 countries to prevent double taxation, and also allow cooperation between the UK and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

The UK imposes value added tax (VAT), which is a tax on consumer expenditure. Businesses (where they are VAT registered and fully taxable) do not bear the final costs of VAT. They are able to charge VAT on the supplies that they make (output VAT) and recover VAT on purchases that they have made (input VAT).

There are currently three rates of VAT: standard rate (17.5 percent, which is charged on the provision of most goods and services); zero rate (0 percent, which is charged on foods, books and children's clothing); and reduced rate (5 percent, which is charged on fuel). Attributable input VAT is recoverable on these supplies by businesses. The standard rate of VAT is to rise to 20% on 4 January 2011.

Some goods and services may be exempt from VAT.

Transfer pricing

The UK has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of an entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

The UK has data privacy laws. Organizations have a legal duty keep data private and secure.

Exchange control

The UK does not restrict the flow of sterling or foreign currency into or out of the country. Certain reporting obligations are, however, imposed to control tax evasion and money laundering. Organizations covered by the legislation have a number of obligations, including the obligation to establish the identity of individuals. A bank account cannot be opened in the UK without proof of identity.

Non-deductible costs for assignees

Non-deductible costs for assignees include mortgage interest, alimony, tax return preparation fees and relocation expenses (unless they are 'qualifying', when deductible expenses are limited to GBP8,000).

United States of America

Introduction

An international assignee's liability for United States (US) tax is generally determined by his or her residence status for taxation purposes and the source of income derived. US residents are generally subject to income tax at progressive rates on taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their US work days.

ANY TAX ADVICE IN THIS COMMUNICATION IS NOT INTENDED OR WRITTEN BY KPMG TO BE USED, AND CANNOT BE USED, BY A CLIENT OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF (i) AVOIDING PENALTIES THAT MAY BE IMPOSED ON ANY TAXPAYER OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY MATTERS ADDRESSED HEREIN.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Income tax

Liability for income tax

An assignee's liability for US tax is determined by residence status. An assignee can be a resident, non-resident, or 'dual status' for US tax purposes.

Residents are generally taxed on their worldwide income regardless of where or for whom the services are performed or where the income is derived. Compensation includes cash remuneration and the fair market value of property or services received.

Non-residents are subject to US tax on income from US sources. US sourced-income that is not effectively connected with a US trade or business (generally investment income) is taxed on a gross basis at a flat 30 percent rate (unless a lower treaty rate applies). A non-resident engaged in a trade or business within the US during the taxable year is taxed on income effectively connected with the US trade or business, less allowable deductions, at normal graduated rates. Generally, income effectively connected with a US trade or business includes compensation for personal services performed in the US.

A foreign national who changes from US resident status to non-resident status or from non-resident to US resident status during a year is subject to US tax as if the year were divided into two separate periods, one of residence and one of non-residence. The dual status foreign national is generally subject to tax on worldwide income for the period of residence and generally only on US source income for the period of non-residence.

Extended business travelers may be considered non-residents of the US for tax purposes, depending upon their travel patterns and other factors.

How is residency determined?

As a general rule, a foreign citizen is treated as a non-resident for US tax purposes unless the individual qualifies as a resident. A resident is defined as an individual who is either a lawful permanent resident (the green card test) or an individual who meets the substantial presence test.

A lawful permanent resident is an individual who has been officially granted the right to reside permanently in the US. These individuals are often referred to as green card holders. For an individual who meets only the green card test, residence begins on the first day of the calendar year in which the individual is physically present in the US as a lawful permanent resident and will generally cease on the day this status officially ends.

An assignee who meets the substantial presence test is an individual who has been present in the US for at least 31 days in the current calendar year and 183 days during the current and two preceding years, counting all the days of physical presence in the current year, one-third of the days in the first preceding year, and one-sixth of the days in the second preceding year. In general, a partial day in the US is counted as one day. There are two exceptions to this test: the exempt individual exception and the closer-connection-to-a-foreign-country exception.

Generally, an exempt individual is anyone temporarily present in the US as a foreign government-related individual, a teacher or trainee who holds a 'J' or 'Q' visa, or a student holding either an 'F', 'J', 'M', or 'Q' visa (there are conditions to qualify for the exempt individual exception, such as the length of time the visa is held, etc.).

Under the closer-connection exception, during the current year the assignee must (1) be present in the US for fewer than 183 days, (2) maintain a tax home in a foreign country, and (3) have a closer connection to a single foreign country in which the individual maintains a tax home than to the US. Both the 'tax home' and 'closer connection' determinations are factual issues and are, therefore, subject to some degree of uncertainty, and we recommend that an individual who seeks to qualify for one of these exceptions speak directly to a tax adviser to seek the proper advice.

Residence under the substantial presence test generally begins the first day during the year in which the assignee is physically present in the US. An assignee generally will cease to be a resident following his or her last day of physical presence in the US provided certain conditions are met.

Note that a period of up to 10 days of presence in the US will not be counted for the purpose of determining an assignee's residency start date; those days of presence will be counted, however, for the purpose of determining whether the 183-day component of the substantial presence test has been met.

Tax trigger points

Other than a fairly limited exception for short-term business visitors (discussed below) or an applicable treaty exemption, there is no other threshold or minimum number of days that exempts the employee from the requirements to file and pay tax in the US.

Under a statutory exception for short-term business visitors, if a non-resident is in the US for 90 days or less during a year, performs services for a foreign employer that is not engaged in a US trade or business, and earns 3,000 US dollars (USD) or less for such US services, the compensation is treated as foreign source and is not subject to US tax. Many treaties provide more generous exemptions from US tax for income earned by non-resident aliens who are present in the US for short periods (generally up to 183 days during either a taxable year or any 12-month period). It should be noted that a direct charge-back of a foreign employee's compensation to a US company could cause the loss of the treaty exemption.

To the extent that the assignee qualifies for relief in terms of the dependent personal services article of the applicable double taxation treaty, there will be no US tax liability.

Types of taxable income

For extended business travelers who are not US residents, the types of income that are generally taxed are employment and US-sourced income and gains from taxable US assets (such as real estate). If an assignee meets the conditions of being 'temporarily away from home,' certain travel, meals, and lodging expenses may be excluded from income.

If an individual is in the US for a temporary assignment, certain US 'away from home' expenses such as travel, meals, and lodging may be deductible (or if reimbursed by the employer, the reimbursements may not be includible in income). The expenses must be (1) ordinary and necessary, (2) incurred in pursuit of a trade or business, and (3) incurred while 'away from home.' The individual must be temporarily away from his or her foreign principal place of employment (i.e. tax home, or if no principal place of employment, then regular place of abode in a real and substantial sense) and the stay in the US must not be indefinite. No away-from-home living expenses paid or incurred are deductible if the individual's period away from his or her tax home is expected to be more than one year at a single location.

An individual will not be treated as being temporarily away from home during any period of employment if that period exceeds one year. This has been interpreted to mean any period of employment in a single location if such period exceeds one year. The Internal Revenue Service (IRS) has clarified that the standard for determining whether an assignment is temporary is the employee's 'realistic expectation' regarding the assignment's duration, both at its commencement and upon the occurrence of a change in circumstances, as well as the actual assignment length.

If any reimbursement exceeds an assignee's substantiated expenses, the employer must report the excess amount as compensation, and the amount is includible in the assignee's income.

We recommend that companies adequately document not only that an employee's assignment is (or is not) initially expected to last one year or less, but also when the assignment is extended beyond one year.

In addition, when travel expenses are reimbursed through an accountable plan, employers should schedule assignments, where feasible, with projected periods of employment for as close to one year as possible, but not over one year. The optimal assignment for tax purposes is thus twelve months. If properly planned, any reimbursements received by the employee during this away-from-home period will be excludable. Any reimbursements that are received while the assignee is not considered to be away from home will be included in the employee's gross income as wages with appropriate withholding for social security and income taxes. Therefore, by properly planning the assignment, both the employer and employee can potentially save employment taxes. In addition, employers with tax equalization policies will likely reduce their tax equalization costs with respect to the assignment.

Tax rates

There are four types of tax status that may apply to a resident:

- Married filing jointly
- Married filing separately
- Head of household
- Single

Each filing status is subject to a different graduated tax rate scale from 10 percent to 35 percent for 2010. The maximum tax rate is 35 percent on income over USD373,650 for 2010 for married filing jointly, head of household, and single taxpayers. The maximum rate for 2010 is 35 percent on income over USD186,825 for married-filing-separately taxpayers. These rates are subject to change, and the thresholds are indexed annually for inflation.

A non-resident is subject to tax at the graduated rates for income that is effectively connected with a US trade or business, such as compensation for services rendered in the US. A 30-percent flat tax (or lower treaty rate) applies to US-sourced income that is not effectively connected to a US trade or business, such as US-sourced dividend income, certain interest, and royalty income.

The filing statuses generally available to non-residents are married filing separately or single.

Social security

Liability to social security

Social security tax, established by the Federal Insurance Contributions Act (FICA), is imposed on both the employer and employee. FICA is assessed on wages paid for services performed as an employee within the US regardless of the citizenship or residence of either the employee or employer. The employee portion of the tax may not be deducted in computing US income tax.

FICA consists of two parts, the old-age, survivors, and disability insurance tax (OASDI), and Medicare tax (hospital insurance). The OASDI rate is 6.2 percent on all wages up to USD106,800 for 2010. This amount is indexed annually for inflation. The Medicare tax rate is 1.45 percent, imposed on all wages, without a cap. In addition, the employer is required to pay as a payroll tax an amount equivalent to the FICA tax imposed on the employee.

Foreign national employees may be exempt from FICA pursuant to a totalization agreement between the US and the employee's home country. Totalization agreements eliminate dual coverage and contributions for foreign nationals working in the US for limited time periods. The US has entered into totalization agreements with the following 24 countries as of 31 December 2009:

Australia	France	Norway
Austria	Germany	Poland
Belgium	Greece	Portugal
Canada	Ireland	South Korea
Chile	Italy	Spain
Czech Republic	Japan	Sweden
Denmark	Luxembourg	Switzerland
Finland	The Netherlands	United Kingdom

Source: KPMG in the US June 2010

In addition, some non-resident visa holders (specifically, F, J, M, and Q visas) may qualify for exemption from FICA.

Compliance obligations

Employee compliance obligations

Tax returns are generally due by the 15th day of the fourth month following the end of the tax year. As virtually all taxpayers are required to follow the calendar year, the tax return due date is generally 15 April.

The time for filing can be automatically extended for six months by filing Form 4868. The time for payment of tax cannot, however, be extended.

A non-resident who has compensation subject to withholding must file an income tax return on or before 15 April. In the case where the non-resident does not have compensation subject to income tax withholding, the tax return is due by 15 June.

Non-residents generally must file income tax returns on time to be permitted to claim deductions. In addition, non-residents who claim the benefits of treaty provisions, or otherwise modify an internal revenue law of the US, are generally required to disclose this position on the tax return for the tax year (unless a specific exception applies). A failure to disclose could lead to substantial penalties.

Employer reporting and withholding requirements

Residents are subject to withholding of income tax on wages paid by their employer. Wages include cash and non-cash payments for services performed by an employee for his or her employer, unless an exception applies.

Non-residents are subject to withholding of income tax on wages paid by their employer for services performed in the US (that is, income effectively connected with a US trade or business).

A non-resident may also be subject to withholding on US-sourced income that is not effectively connected with a US trade or business (generally, investment income). The withholding rate is 30 percent imposed on gross income, unless lowered by treaty.

Other

Work permit/visa requirements

Generally, a visa must be obtained prior to a foreign national entering the US to work. The type of visa required will depend on the purpose of the individual's entry into the US.

Foreign nationals generally must obtain visas at American embassies and consulates to enter the US. A waiver of the visa requirement is available to nationals of most developed countries if a trip is brief and for tourism or non-employment business purposes.

Individuals coming to the US for the purpose of engaging in employment must generally obtain a visa that authorizes such employment. Information on visa and other travel/work document requirements can be obtained from the US embassy or consulate in your jurisdiction or by visiting the US Department of State Web site at www.travel.state.gov.

Temporary or non-immigrant visas are granted to provide the opportunity of employment in the US. Assignees may also be eligible for permanent residence (green card status), which may be based upon the sponsorship by a relative who is a citizen or a green card holder. Additionally, green cards may be issued in connection with permanent employment in the US, in which case sponsorship by the employer is not unusual.

Most assignees initially work in the US with non-immigrant visas.

Certain non-immigrant visas provide work authorization for an individual's employment in the US, as well as for his or her spouse and dependants. If a particular visa does not provide for work authorization for the assignee's spouse or dependants in the US, they would need to obtain their own employment visas to be eligible to work in the US.

Because there are many different visa categories, which are applicable to different employment relationships, we recommend obtaining professional assistance from an experienced law firm if the company does not have qualified professionals on staff.

The following is a list of the more typically encountered non-immigrant visa categories, which allow the holder to work in the US without specific authorization from the Department of Homeland Security (DHS). This listing is abbreviated and, therefore, not all-inclusive.

Class of Admission	Description
F - 1	Academic student – for on-campus employment and DSO authorized curricular practical training
H - 1B	Worker in specialty occupation
J - 1	Exchange visitor (pursuant to an approved program)
L - 1	Intra-company transferee
L - 2	Spouse of an intra-company transferee

Source: KPMG in the US June 2010

Double taxation treaties

In addition to the domestic laws of the US that provide relief from international double taxation, the US has entered into income tax treaties with more than 65 countries to prevent double taxation and allow cooperation between the US and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on a number of factors (e.g., the type of services performed, the level of authority the employee has, duration, etc.) and is beyond the scope of this document.

Indirect taxes

The US does not impose a VAT. No sales tax is imposed at the federal level. Most states and many localities impose a sales tax on various goods and services. Alaska, Delaware, Montana, New Hampshire, and Oregon do not impose a state-wide general sales tax. For the states that impose a state sales tax, the sales taxes range from 2.9 percent in Colorado to 8.25 percent in California. Localities may impose a sales tax in addition to the state tax rate. The definition of a taxable sale or service, as well as the tax rate, varies from jurisdiction to jurisdiction.

Transfer pricing

The US has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction, but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. How such a proper reimbursement is calculated is dependent on the nature and complexity of the services performed.

The US rules are provided for pursuant to Internal Revenue Code section 482 and the related regulations. Caution: If a foreign person pays the salary of an employee who is employed in the US, but a US corporation or permanent establishment reimburses the payor with a payment that can be identified as a reimbursement, it is likely to cause certain requirements of the dependent personal services article in the double taxation treaty to be considered to have not been fulfilled, thereby disallowing the application of the treaty benefit.

Local data privacy requirements

The data privacy rules in the US arise from a collection of federal, state, and industry case law, statutes, and practices as a result. There is no independent oversight agency in the US.

Rules and oversight come from the following, for example (by no means a comprehensive listing):

- The Office of Management and Budget plays a limited role in setting policy for federal agencies under the Privacy Act of 1974.
- The American Institute of Certified Public Accountants has developed a Generally Accepted Privacy Principles framework that companies can follow.
- The Federal Trade Commission has oversight over some data privacy areas.
- The USA PATRIOT Act, renewed in 2006, addresses some privacy issues.

Exchange control

US authorities generally impose no restrictions on bringing money into or out of the US. Transfers of more than USD10,000 in a single transaction, however, must be reported to the Commissioner of Customs on Form 4790. This report is not required if the transfer occurs through normal banking channels. Certain individuals are also required to report on an annual basis if they own or have signature authority over accounts located outside the US which have a combined value of over USD10,000 at any time during the year. This report is filed on Form TD F 90-22.1 with the Department of the Treasury by 30 June of the following year.

If, however, a listed country or entity is involved, then there can be extensive embargoes, sanctions, record keeping, and other restrictions on the flow of funds. The US Treasury and the Office of Foreign Assets Control maintain the list of countries and entities.

Non-deductible costs for assignees

Assignees may find the US definition of gross income broad and the number of allowable deductions limiting when compared to their home countries. US taxation of retirement-focused funds and deductibility of moving expenses are two areas where assignees and their employers may notice significant differences in treatment.

For example, US resident employees who participate in certain non-US pension plans not only may be taxed in the US on distributions from the plans, they may also be taxed on the vested accrued benefits in these non-US pension plans. In addition, the assignee may not be able to deduct current contributions, unless relief is available under a treaty. Likewise, income from a social security plan received by a US resident can be taxable in the US, depending upon provisions in applicable income tax treaties.

The definition of deductible moving expenses for US purposes can also be limiting when compared to some other countries. Extended business travelers whose tax home does not shift to the US will generally not be able to deduct moving expenses as these are deductible only if the taxpayer will be employed at the new principal place of work on a permanent or indefinite basis. The general rule for employees is that moving expenses will be deductible if the taxpayer will be employed at the new place for more than 39 weeks.

For assignees who can deduct moving expenses, deductible moving expenses incurred with moving to a new location for employment-related reasons are limited to the reasonable expenses of:

- Moving household goods and personal effects to the new residence
- Travel and lodging costs during the move
- In the case of foreign moves, moving household goods to and from storage and storing such goods

The definition of moving expenses does not include the following (this list is not all-inclusive):

- Meal expenses
- The costs of selling the old residence or purchasing a new residence
- Expenses of obtaining or breaking a lease
- Loss on sale of a house
- Automobile registration or driver's license fees
- Security deposits

There are many other items that the US considers as taxable income or disallows as deductions that may significantly differ from the assignee's home country rules. It is recommended that all assignees to the US for any period of time seek professional assistance with their US federal, state, and local tax obligations.

Uruguay

Introduction

A person's liability to Uruguayan tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. Both residents and non-residents are taxed on their Uruguayan-source income.

If the Uruguayan-sourced income is obtained by a resident individual, the resident will be subject to Personal Income Tax (Impuesto a la Renta de las Personas Físicas – IRPF) which, in the case of labor income, is levied at progressive rates on an individual's taxable income for the year; this is calculated by subtracting allowable deductions from the total assessable income.

If the Uruguayan-sourced income is obtained by a non-resident individual, the non-resident will be subject to Non-resident Income Tax (Impuesto a las Rentas de los No Residentes – IRNR) which, as a general rule, is levied at the flat rate of 12 percent.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Uruguayan work days.

Please note that, as this document is going to print, the Uruguayan government is about to introduce to Parliament a bill of law that, if approved, could result in significant changes to some of the information contained in this chapter of *Thinking Beyond Borders.*

Income tax

Liability to income tax

A person's liability to Uruguayan tax is determined by his or her residence status. A person can be a resident or a non-resident for Uruguayan tax purposes. A resident of Uruguay generally refers to an individual who stays in Uruguay for more than 183 days during a calendar year or whose center of vital or economic interests is located in Uruguay.

A non-resident of Uruguay is generally someone who spends less than 183 days in Uruguay. Extended business travelers are likely to be considered non-residents of Uruguay for tax purposes unless their center of vital or economic interests is located in Uruguay.

Definition of source

Employment income is generally treated as Uruguayan-sourced compensation where the individual performs the services while physically located in Uruguay. Income obtained from goods located, or rights used economically, in Uruguay is also considered Uruguayan-sourced income. As a general rule, compensation earned from working abroad will not be taxable to residents or non-residents.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Uruguay. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment and Uruguayan-sourced income and gains from taxable Uruguayan assets (such as real estate).

Tax rates

IRPF: Net taxable labor income is taxed at graduated rates ranging from 0 percent to 25 percent. The maximum tax rate is currently 25 percent on labor income earned over 2,473,200 Uruguayan pesos (UYU). Capital income, such as interest, dividends, and other capital income is taxed at rates between 3–12 percent, depending upon the nature of the income and residency status.

IRNR: The rates of this tax are as follows:

- Interest from deposits in national currency and in indexed units of more than one year in local financial institutions: 3 percent
- Interest from debentures and other debt titles issued with a term of more than three years through public subscription and quoted at a stock exchange: 3 percent
- Interest from deposits of one year or less in national currency without readjustment clauses: 5 percent
- Dividends or profits paid or credited by corporate income tax taxpayers: 7 percent
- Other income (including labor income): 12 percent

Social security

Liability to social security

There is a social security contribution system that covers all employees. All expatriates working in Uruguay temporarily or permanently, even for periods of less than one year, are subject to the social security system. Where social security contributions are being paid in their country of origin, however, and Uruguay has entered into a social security treaty with that country, the expatriate is exempt.

In calculating the amount of compensation subject to social security contributions, all remunerative items that the employee receives from the employer must be included. Nevertheless, certain items like food and health assistance and life and accident insurances have been declared exempt from employee social security charges if their aggregate amount does not exceed 20 percent of the worker's taxable remuneration.

The rates of contribution are as follows:

Type of Insurance	Paid by		Total Percent
	Employer Percent	Employee Percent	
Pension Contributions	7.5	15.0	22.5
Labor Reconversion	0.125	0.125	0.250
Health Insurance	5.0	3.0, 4.5, or 6.0	8.0, 9.5, or 11.0
Total Percent	12.625	18.125, 19.625, or 21.125	30.750, 32.250, or 33.750

Source: KPMG in Uruguay June 2010

Pension Fund Contributions

Pension fund contributions are calculated as a percentage of salary, and under the general regime, this percentage will amount to 22.5 percent, of which 7.5 percent is borne by the employer and 15 percent is withheld from the employee. It is, however, worth noting that these contributions apply only to the portion of salaries that does not exceed approximately USD3,300 dollars monthly.

Accidents at work are insured separately at the sole expense of the employer. Other contributions to the social security system are as follows:

Labor Reconversion Fund

This amounts to 0.25 percent (0.125 percent borne by the employer and 0.125 percent by the employee).

Health Insurance

This amounts to 8 percent (5 percent borne by the employer and 3 percent, 4.5 percent, or 6 percent withheld from the employee (depending on his or her salary and on the number of dependent children)).

Totalization Agreements

Uruguay has entered into a formal social security totalization agreement with 24 countries, including the 20 other Iberoamerican Organization countries, to prevent double taxation and allow cooperation between Uruguay and overseas tax authorities in enforcing their respective tax laws.

Compliance obligations

Employee compliance obligations

Income tax returns are due by May following the tax year-end, which is 31 December. Taxpayers will however be required to file a return only to the extent that their tax liability was not satisfied through mandatory withholding.

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable in respect to employment income, including both residents and non-residents, the payer has a PAYE withholding requirement.

Other

Work permit/visa requirements

In general, only a valid passport is required to enter Uruguay on business. There are, however, some limited cases where a visa will be necessary prior to entry. Visas will be granted for 90 days. MERCOSUR nationals (individuals from Argentina, Brazil, and Paraguay and of associate member countries Bolivia and Chile) require only their identity cards. The type of visa required will depend on the purpose of the individual's entry into Uruguay.

Double taxation treaties

In addition to Uruguay's domestic arrangements that provide relief from international double taxation, double taxation treaties are in force and effect with Germany and Hungary to prevent double taxation and allow cooperation between Uruguay and overseas tax authorities in enforcing their respective tax laws. Treaties have also been signed with Mexico and Spain but have not yet been internalized and are still not in force.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would depend on the type of services performed and the level of authority the employee has.

Indirect taxes

The standard VAT rate is 22 percent imposed on the sale of goods, the provision of services, and on imports. Registration is mandatory. Non-resident entities providing services in Uruguay must pay VAT through withholding.

Transfer pricing

Uruguay has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed. Uruguay's transfer pricing regime is based upon the OECD (Organization for Economic Cooperation and Development) guidelines.

Local data privacy requirements

Uruguay's data privacy regime is contained in Act N° 18.331 (Personal Data Protection and 'Habeas Data' Action), which also covers employee data. In addition, Act 16.713 also protects confidentiality of employment history and other labor records. The Tax Code and Banking Law likewise has data privacy provisions that might affect extended business travelers to Uruguay.

Exchange control

Uruguay does not restrict the flow of Uruguayan or foreign currency into or out of the country.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Uruguayan pension funds.

Venezuela

Introduction

A person's liability to Venezuelan tax is determined by his or her residence status for taxation purposes and the source of income derived by him or her. For residents, income tax is levied at progressive rates on an individual's worldwide taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income. Non-residents are not entitled to the deductions and will be assessed at a 34 percent flat rate of tax.

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Key messages

Extended business travelers are likely to be taxed on employment income relating to their Venezuelan work days.

Income tax

Liability to income tax

A person's liability to Venezuelan tax is determined by his or her residence status. A person can be a resident or a non-resident for Venezuelan income tax purposes.

An individual is considered to be a tax resident of Venezuela if he or she stays in the country for more than 183 days during the calendar year or in the previous calendar year.

In addition, individuals who have established their residence or home in Venezuela would be considered residents, unless they remain in another country for a consecutive or non-consecutive term of more than 183 days during the calendar year and can demonstrate having acquired residency in that other country for tax purposes.

Resident individuals in Venezuela will pay taxes on their income of any origin. Non-resident individuals will be subject to tax on the earnings that are caused or originated in Venezuela, even though they do not have permanent establishment or a fixed base in the country.

Extended business travelers are likely to be considered non-residents of Venezuela for tax purposes.

Definition of source

Employment income is generally treated as Venezuelan-sourced compensation where the individual performs the services while physically located in Venezuela.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Venezuela. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. Nevertheless, there is an obligation to file a nil tax return claiming the tax treaty benefit. The treaty exemption will not apply if the Venezuelan entity is his or her economic employer.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment and Venezuelan-sourced income and gains from taxable Venezuelan assets (such as real estate).

Tax rates

For residents, net taxable income is taxed at graduated rates ranging from 6 percent to 34 percent. The maximum tax rate is currently 34 percent on income earned over 6,000 tax units of income. The value of the tax unit for 2010 is 65 bolivar fuertes (VEF). Non-residents are subject to flat tax at 34 percent.

Social security

Liability to social security

Foreigners who reside and work in Venezuela are subject to the mandatory Venezuelan social security. The social security contribution is withheld from the monthly salary, based on a ceiling of VEF6,119 (USD1,423) per month (five monthly minimum salaries), which may vary annually.

Non-resident foreigners working under a dependent relationship in Venezuela are likely to be subject to the social security withholdings.

Social security benefits take the form of comprehensive assistance and monetary payments, under the provisions of the Social Law and its regulations. That law covers social security protection for beneficiaries in cases of maternity, old age, survivorship, sickness, accident, disability, death, retirement, dismissal, and unemployment.

The employer and employee contributions are as follows:

	Employer	Employee	Total
Minimum risk	9	4	13
Intermediate risk	10	4	14
Maximum risk	11	4	15

Source: KPMG in Venezuela June 2010

Venezuela has entered into a formal social security totalization agreement with four countries (Spain, Italy, Portugal and Greece) to prevent double taxation and allow for cooperation between Venezuela and overseas tax authorities in enforcing their respective tax laws.

Unemployment Compensation

This benefit extends to all employees insured by the Venezuelan Social Security Institute (IVSS) who lose their jobs and are able and willing to work.

Employers and employees must make monthly contributions to the unemployment compensation fund, based on the following percentages applied on a maximum ceiling of VEF12,239 (USD2,846) (10 monthly minimum salaries), as follows:

	Employer	Employee	Total
Contribution	2	0.5	2.5

Source: KPMG in Venezuela June 2010

Housing Loan Regime

The housing policy law is a legal tool by which the government seeks to meet the housing needs of Venezuelan families, and particularly those of low-income families. All Venezuelans and foreigners actively contributing, whose monthly salary is lower than 150 tax units, are potential beneficiaries.

Employers and employees are required to pay contributions to the Housing Policy Fund, during the first five business days of every month, based on the following percentages of each employee's monthly salary (no ceiling), as follows:

	Employer	Employee	Total
Contribution	2	1	3

Source: KPMG in Venezuela June 2010

National Institute of Socialist Educational Cooperation (INCES)

Within the first five days of each quarter, the employer must deposit the equivalent of 2 percent of the total amount of wages, salaries, and compensation of any other kind paid to persons who work in industrial or commercial establishments not owned by the nation, the states, or the municipalities. Employers are also required to withhold 0.5 percent of annual profit sharing payments to workers for this purpose.

Compliance obligations

Employee compliance obligations

Income tax returns are due by 31 March following the tax year-end, which is 31 December.

All resident individuals obtaining yearly net income that exceeds 1,000 tax units or gross income that exceeds 1,500 tax units must report such income by filing a tax return.

Non-residents should file a Venezuelan tax return for all income from or losses sustained in Venezuela, whatever the amount.

Spouses, if not legally separated, are considered to be joint taxpayers. The spouse may elect to file a separate return for his or her own employment income, but in that case, only one of the spouses may claim the deductions and exemptions available to both parties.

The tax payment arising from the final income tax return may be paid in three installments, the first one on or before 31 March of each fiscal year when filing the tax return, the second within 20 days thereafter, and the third one within 40 days. If any of these payments is made after the applicable due date, the taxpayer must pay in full the amount owed. In such cases, the taxpayer may not elect to pay in installments and, an interest charge will be imposed on the late payment.

Employer reporting and withholding requirements

Tax withholding is performed in the monthly payroll; the employer is regarded by the Venezuelan tax authorities as a tax withholding agent and must withhold income tax from employees on a monthly basis for both residents and non-residents.

Other

Work permit/visa requirements

The employee and his or her companions must have a visa in order to enter Venezuela.

The migration law establishes three categories of foreigners:

- Non-migrant: Presence in the country is allowed for not more than 90 days without any possibility of engaging in a business activity
- Temporary migrant: The period of presence in the country would be allowed until the business activities are finished
- Permanent migrant: The individual must have the legal authorization to stay in the country for an indefinite period

The migration law intends to strictly control and supervise migrants in Venezuela and, for the first time, imposes fines up to USD2,140 to employers as well as the deportation of the illegal immigrant.

Double taxation treaties

In addition to Venezuela's domestic arrangements that provide relief from international double taxation, Venezuela has entered into double taxation treaties with approximately 24 countries to prevent double taxation and allow cooperation between Venezuela and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is the potential that a permanent establishment could be created for the employer as a result of extended business travel, but this would depend on the type of services performed, the level of authority, and the capability to conclude contracts on behalf of the employer.

Indirect taxes

Value-added tax (VAT) is due on any supply of goods (except real estate) or services made in the country. Supply includes all forms of supplies. It is not restricted to the provision of goods and services by way of sale but can apply equally to other forms of transactions.

The VAT rate will be adjusted in accordance with the budget law (Ley Presupuesto Anual). The yearly VAT rate is 12 percent.

Supply does not include anything done not for payments. Certain actions carried out without remuneration are however deemed to be supplies as a self-consumption, for example, business gifts and private use of business assets.

Goods and services tax (GST) is applicable at 10 percent in respect of taxable supplies. GST registration may, in some circumstances, be required.

Venezuelan Entities

If a business makes sales of taxable supplies in Venezuela, the business is required to file VAT returns.

Foreign Entities

Foreign entities not domiciled in Venezuela are not required to assess VAT; in cases of import of goods and services the buyer is responsible for payment of VAT.

Transfer pricing

Venezuela has a transfer pricing regime that generally follows arm's-length principles as outlined in the OECD (Organization for Economic Cooperation and Development) guidelines. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Management fees are generally deductible. The amount of withholding applicable to the fees will be dependent upon the type of country, whether income tax treaties apply, and the company domicile. Withholding on management fees is 34 percent based on the 90 percent of gross income. Additional information can be found on the SENIAT (Venezuela's tax authority) Web page under Decree No.1.808, Income Tax Withholding Regulations.

Local data privacy requirements

Venezuela has numerous data privacy laws. For example, Articles 60 and 143 of the Constitution specifically refer to data processing and privacy. The Special Law against Information Crimes addresses illegal access to systems and unauthorized use of data. The Organic Telecommunications Law defines various rights to communications and information.

Exchange control

There are applicable foreign exchange (FX) controls and restrictions applicable in Venezuela since 5 February 2003. US currency trade is reserved to the Venezuelan Central Bank (BCV), except for transactions approved by the controlling authorities.

US currency entering Venezuela must be sold to the BCV. Failure to do so may be considered exchange fraud. The transfer of cash to employees would not imply a FX issue as long as the currency is kept outside Venezuela.

The foreign exchange control regime imposed in Venezuela would most likely affect repatriation of excess cash at the end or during an individual's assignment. Specific advice should be sought on this issue.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employee to foreign pension funds, foreign social contributions, and personal charges.

Fiscal Information Registry

All individuals engaged in economic activities in Venezuela must register with the Fiscal Information Registry (RIF) within the first 25 days of starting business in Venezuela. This registration must be updated every three years.

Vietnam

Introduction

Income tax

Tax residents of Vietnam are taxed on worldwide income whereas non-tax residents are taxed on Vietnam-sourced income only.

Foreigners will be subject to Vietnamese personal income tax (PIT) based on their physical presence in Vietnam and the source of income derived by them.

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Key messages

Employees who are present on an extended basis in Vietnam are taxed on both their employment income and non-employment income based on their residence status.

Liability to income tax

A foreign person's liability to Vietnamese tax is determined by his or her residence status. If a foreigner is present in Vietnam for more than 182 days in a tax year or he or she has a rented house or similar in Vietnam with the term of 90 days or more in a tax year, he or she is treated as a tax resident of Vietnam and is taxed on his or her worldwide income. A non-tax resident of Vietnam is an individual who does not meet the above criteria for a tax resident of Vietnam and is subject to tax on Vietnam-sourced income. Vietnamese nationals with a regular residential location are deemed to be Vietnamese tax residents.

Definition of source

Vietnam-sourced income is income earned or received in relation to the employment of that foreign individual in Vietnam, regardless of origin or country where the remuneration is paid.

Tax trigger points

Technically, there is no specific rule regarding when an assignee is treated as entering the country before his or her assignment. In practice, the tax authority accepts that the official assignment date is the first day the assignee earns income in Vietnam and the assignee must declare income from that day. The arrival date, however, is the first date of the first tax year in which residence status is determined.

Types of taxable income

For employees with an extended presence, the types of income that are generally taxed include employment income, income from the operation of household business, income from capital investments, income from capital transfers, income from real estate transfers, income that is winnings or prizes, royalties, income from franchises, income from inheritance and income from gifts.

The above types of income are assessed at different tax rates and subject to different tax compliance procedures.

For employment income and income from the operation of household business, the progressive rates are applied and the top marginal rate of tax is 35 percent.

Tax rates

The tax rates and tax thresholds for employment income vary depending upon whether the individual is a resident of Vietnam or non-resident for tax purposes. Tax residents of Vietnam are taxed at progressive tax rates ranging from 5 percent to 35 percent. The top marginal rate is 35 percent on income earned over 80 million Vietnamese dong (VND) for tax residents of Vietnam (including both Vietnamese nationals and expatriates). Non-residents of Vietnam are subject to tax at a flat rate of 20 percent on their Vietnam-sourced income.

Tax compliance obligations

Employer reporting and withholding requirements: The employer must withhold the relevant percentage of the income paid to its employees and remit the tax withheld to the State Treasury no later than the 20th of the following month.

The employer finalizes PIT on behalf of its employees provided that the employees have income only from the employer and authorize the employer to finalize tax on their behalf.

Employee compliance obligations: Each employee is required to obtain his or her individual tax number and to declare his or her dependant qualified for tax relief. In addition, an employee must complete a tax finalization return where the tax liability of an individual at year end is greater (or less) than the sum of tax paid during the year.

Personal income tax returns are due by 31 March of the following year or within 45 days after the termination. Non-residents are required to declare the number of days they were present in Vietnam.

Other

Liability to social security

Foreign individuals are not liable to pay towards social security. For Vietnamese individuals, the contribution rate for the statutory Social Scheme is 22 percent applied from 1 January 2010. This fund provides employees who make contributions to the fund with benefits and payments for sickness, maternity leave, work related accident and illness, pension/retirement, and death.

From 1 October 2009, a foreign individual who signs an employment contract for three months or more with an entity in Vietnam is subject to the statutory health insurance payment. The applicable rates from 1 January 2010 are 1.5 percent for employees and 3 percent for employers.

Vietnamese employees and employers of a business entity with ten or more Vietnamese employees are required to contribute the same rate of 1 percent for unemployment insurance.

The base level used for calculation of the compulsory insurances above is capped at 20 times of the minimum salary (i.e. VND14,600,000 from 1 May 2010).

Work permit/visa requirements

A visa must be applied for before the individual enters Vietnam. The type of visa required will depend on the purpose of the individual's entry into Vietnam.

Foreigners working in Vietnam for three months or more are required to apply for a work permit in Vietnam, unless they are otherwise exempted under the relevant regulations.

After obtaining the work permit, the assignee can apply for a temporary resident card, which exempts him or her from the visa when entering or exiting Vietnam during its validity. Please note that the Vietnamese Immigration Department has recently ceased to grant business visas for longer than three months for foreigners without work permits.

Double Taxation Treaties

In addition to Vietnam's domestic arrangements that provide relief from international double taxation, Vietnam has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow cooperation between Vietnam and overseas tax authorities in enforcing their respective tax laws. This is not an automatic process. A notification applying tax exemptions or using tax credits under a double tax treaty must be filed with the Vietnamese tax authority at the beginning of the Vietnam assignment and in each calendar year. Documentation, including a certificate of tax residence in the home country, is required in order to claim a tax exemption, a tax refund, or credit for the tax paid overseas.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT is applicable at 10 percent in respect of taxable supplies. Lower rates of 0 percent or 5 percent may be applied to some goods or services. 0 percent VAT is applicable to foreign companies/organizations without a permanent establishment in Vietnam. A legal establishment in Vietnam that applies the Vietnamese accounting system is required to have VAT registration.

Transfer pricing

Transfer pricing, which applies to assessments from the 2006 tax year, gives the tax authority extensive powers to make transfer pricing adjustments to non-arm's-length related-party transactions or where a taxpayer fails to comply with disclosure requirements. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

There are no data privacy laws.

Exchange control

Foreign currencies remitted out of the country are strictly controlled and permits must be obtained from the State Bank of Vietnam. Foreigners can take out up to 10,000 US dollars (USD) (or equivalent in a foreign currency) without having to declare the amount to customs. Amounts in excess of this must be declared. Generally, foreign currency can be remitted out of the country with proof of payment of applicable taxes.

Non-deductible costs for assignees

Non-deductible costs for both an employee and an employer include contributions that are not mandatory according to the regulations of the employee's home country and certain benefits for specific employees.

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Designed by Evalueserve.

Publication name: Thinking Beyond Borders: Management of Extended Business Travelers

Publication number: 100640

Publication date: July 2010