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EXPATRIATE NEWSLETTER

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CANADA

STRATEGIES TO MANAGE THE RISKS AND COSTS OF SHORT-TERM BUSINESS TRAVEL

International business expansion is a complex process that must be done strategically in order to minimise risk, limit potential tax liabilities and maximise profits. Our Doing Business Globally series is designed to give Canadian companies the advice they need to reduce risk, limit exposure and successfully expand into global markets. The latest addition to the series reviews strategies available to manage the risks and costs of short-term business travel.

Many Canadian companies face unexpected employment challenges when expanding operations beyond our borders. Tax concerns, issues with immigration laws and unanticipated costs can all complicate expansion plans. Whether you are selling south of the border, opening a foreign office or setting up production overseas, there are a number of critical areas your company should consider related to employee mobility during your expansion.

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EDITOR'S LETTER

The BDO Expatriate Newsletter provides a brief overview of issues affecting international assignees, predominantly, but not exclusively, from a tax and social security perspective.

This newsletter brings together individual country updates over recent months. As you will appreciate, the wealth of changes across multiple jurisdictions is significant so to provide easily digestible information we have kept it to the key developments that are likely to affect your business and international assignees.

For more detailed information on any of the issues or how BDO can help, please contact me or the country contributors direct.

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Creating a mobile workforce

There are multiple reasons why Canadian employees may need to travel to support a company's international expansion. For example, as a company expands operations into new markets, experienced employees are needed to meet with potential clients, conduct fact-finding missions and scope out areas for local operations. During the expansion, Canadian employees may be in the foreign jurisdiction to help set up local operations, transfer knowledge and train and develop the local staff. The business may also wish to fill key positions from Canadian staff members on a temporary basis.

Each of these cross-border activities creates complex tax and risk exposure. To help mitigate these risks, employers can take a number of proactive actions. One important action is to review and ensure compliance with the immigration and employment laws in the foreign jurisdiction. In practice, many short-term business travellers generally do not register with the local authorities; however, companies should ensure that all required work permits and other legal agreements are in place before the start of the assignment. Failure to abide by immigration rules may result in significant delays at the border, refusal of entry, hefty fines, deportation or even imprisonment for the individuals.

Other ways to protect the company are through the implementation of formal international assignment policies and through the use of formal assignment letters. By standardising its international assignment policies, the company can manage its mobile workforce and related costs more efficiently, enhance compliance with tax and immigration laws and help develop and retain top talent. It is important not to overlook the fact that the assignment needs to work for the employee too. Whether the employee is travelling with family or they have obligations at home and need to return semi frequently, the relocation is for career development reasons or for fulfilling a business need – a full assessment needs to be done to make sure that the employees are good candidates for an international assignment. If it is a bad experience for the assignee, the whole project or mission would be at risk and so could the employer-employee relationship. Assignment letters typically state the terms of the assignment and the employer and employee responsibilities. As such letters are signed by both parties to confirm agreement to stated terms and conditions; they form a valuable barrier to exposure for the company.

Once a company has employees travelling to or working in a foreign jurisdiction, it is also important to have a process to identify the employees who are working abroad. Many organisations have difficulty tracking their short-term business travellers, which can lead to both tax and immigration difficulties down the road. A business can significantly reduce its risk exposure by identifying and monitoring its mobile employees and implementing processes and procedures to ensure that the employees and the company comply with tax and immigration laws.

Navigating personal tax challenges

Foreign and cross-border activities can create complex and potentially severe tax issues for employees. Ensuring the employees' compliance with individual tax laws in both Canada and the foreign jurisdiction can be difficult, but it is one of the most important areas that should not be overlooked as reactionary clean-ups could be costly for the company.

Many companies mistakenly believe that as long as employees spend 183 days or fewer in a foreign country, they will not owe tax in the foreign jurisdiction. This is untrue.

While length of stay is a factor, other concerns include the employee's residency status, domestic tax laws in Canada and in the foreign country and the tax treaty between Canada and the foreign country. Most Canadian tax treaties will exempt taxation under a 183-day test, as well as taking into account the source of the employee's remuneration, the location of the legal business entity to which the employee costs are charged, and whether that legal entity has a permanent establishment in the foreign jurisdiction. Based on an assessment of these factors, foreign taxation could still be triggered as of the employee's first day abroad, irrespective of the duration of stay.

To complicate matters, even if the employee does not owe taxes, some foreign jurisdictions may still require the individual to file a tax return. Failure to file a tax return can result in penalties and interest – and in limited circumstances, even criminal penalties, including jail time.

To address some of these risks, it is critical for the company and its employees to take a proactive approach to compliance with the tax laws. Companies should have a global mobility tax specialist review the Canadian and foreign tax consequences of 'high risk' employees working abroad, so as to identify and communicate appropriate tax implications and tax planning strategies and to help promote and enforce compliance with the tax laws.

Establishing an international assignee payroll

Upon going global the company must address payroll delivery. Many companies struggle in this area due to the complexities of Canadian and foreign tax regulations. Not only are there no 'cookie cutter' approaches to setting up an international payroll structure, but many Canadian and foreign payroll vendors are inexperienced in international payroll delivery and associated issues. As a result, the best approach is often to seek the assistance of a global mobility tax specialist to assist with international assignee payroll matters.

At a minimum, an international assignee payroll should be set up to ensure that the proper payroll withholding, remitting and reporting requirements are met in Canada and in the foreign country. An optimal payroll delivery structure not only ensures compliance but also helps minimise global payroll costs and adverse cash flow issues for the employee and the company. Care should also be taken to ensure that assignees' personal objectives can be maintained during the assignment, such as providing payment in a certain currency, remaining within the Canadian social security system or paying into a Canadian company-sponsored pension plan.

Addressing corporate tax challenges

A risk that few companies are aware of is that sending an employee to work in a foreign country on behalf of a Canadian entity may inadvertently create a permanent establishment in the foreign location. As a result, both the Canadian employer and the employee can be subject to tax and burdensome reporting requirements – a complication that many employers do not discover until after employees have gone on assignment. A review of the nature of the employees' activities in the foreign jurisdiction is important when assessing whether a permanent establishment has been created.

One way to help insulate the employer from certain negative tax consequences is through the creation of a secondment agreement. In addition to protecting against the inadvertent creation of a permanent establishment and certain corporate withholding requirements on intercompany payments, a secondment agreement can also help the company comply with the payroll reporting requirements in both the home and host country.

Other corporate tax issues to consider include:

- Corporate tax filing positions;
- Transfer pricing implications;
- Allocation of compensation costs for the services being rendered;
- Managing cross charges and associated potential corporate withholding tax;
- Value added tax (VAT/GST) considerations.

In Canada, there is a lot of information sharing between immigration, CRA and labour boards and enforcement activities such as payroll audits and transfer pricing audits are on the rise. Non-compliance in one area would directly impact the company's ability to act in another. As the global market gets more connected there will be increased information sharing over borders, so compliance worldwide is critical for international operations.

Taking the right approach to talent mobility when expanding to foreign territories

Companies can efficiently manage their tax risks associated with cross-border travel while supporting business strategy and minimising costs by establishing and implementing proper policies and processes. Whether assignments are long or short, international or cross-border, a well thought out process will help facilitate timely and successful transfers while keeping costs and risks in check.

In addition to employing some of the risk mitigation strategies discussed above, companies are also encouraged to have a person responsible for ensuring that the controls and processes are consistently applied. This person should bring together key influencers within the organisation – especially from HR, Legal/Immigration, Tax, Payroll, Finance, Accounting and operating units – to discuss global mobility matters and help drive necessary changes.

BDO comment

International talent mobility is a complex issue that requires care and foresight. Taxes, immigration, and rising risks and costs are often beyond what companies expect or budget for, and can a have a long-term impact on the business' foreign operations. For advice and support on navigating through these challenges, please contact your BDO advisor.

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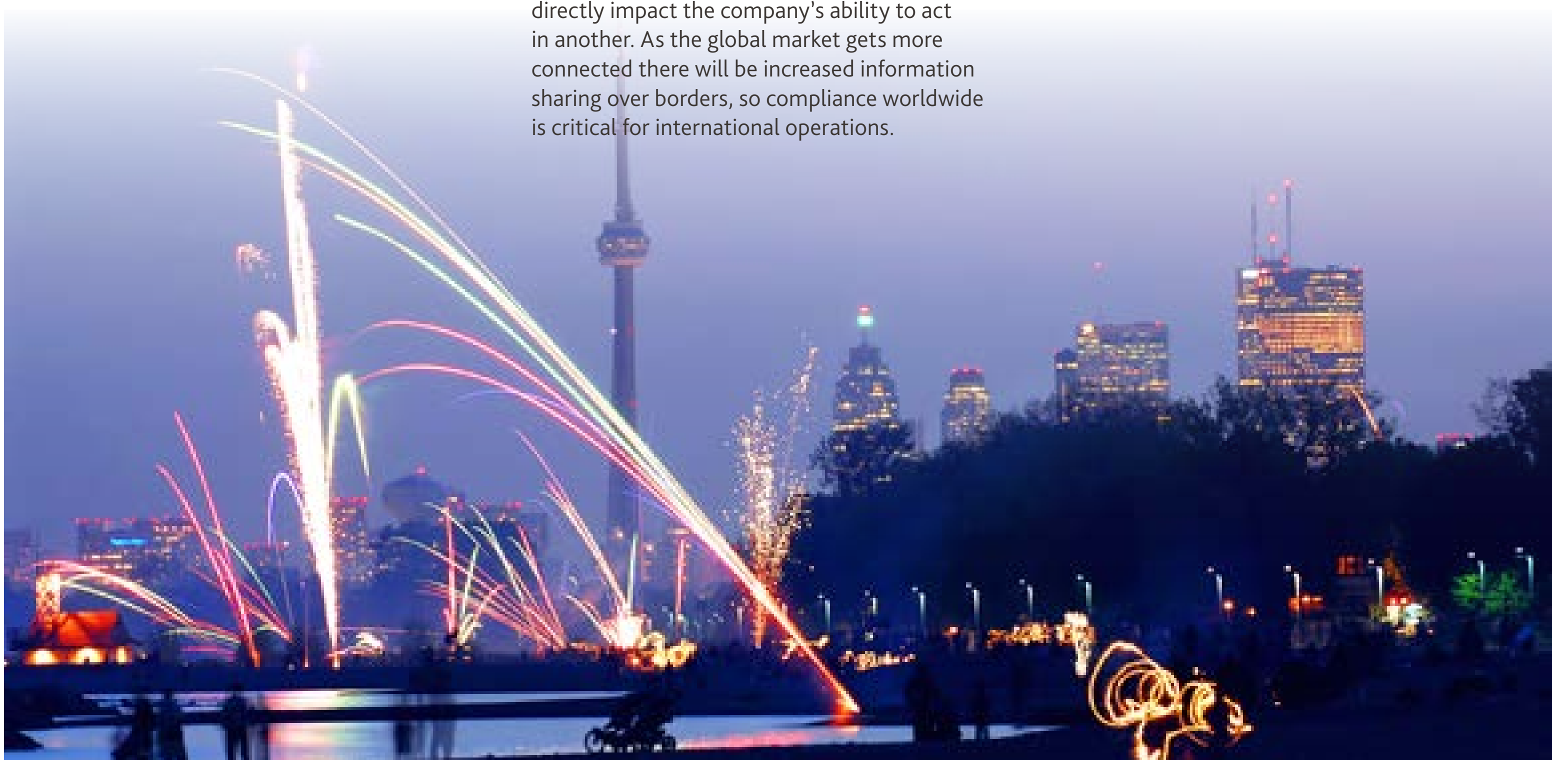

AUSTRALIA

GLOBAL MOBILITY, AUSTRALIA'S CHANGING IMMIGRATION LAWS AND THE CHALLENGES TO BUSINESS – A MOVING FEAST

Historically, Australia as a nation of immigrants has had a relatively liberal visa program, to enable temporary and permanent entry of skilled workers, to meet Australia's skill shortage needs.

However, this year the Government has continued its very robust reform agenda which is less focused on making the program more responsive to market needs and more about protecting the employment and training opportunities of Australian workers.

Concerns are that the data shows a substantial growth in the 457 visa program at a time when the Government is of the view that it should be stabilising or reducing in number.

As part of the re-engineering of the Subclass 457 program, the Government's reforms, which were announced on 18 April 2017, in relation to temporary and permanent skilled visas continued with further changes to the law which came into effect on 1 July 2017.

These changes add an additional level of complexity to Australia's already complex and ever-changing immigration laws and policies. Their complexity and changeability make it difficult for businesses to plan their workforce needs and to address skilled labour force shortages by recruiting overseas talent.

These changes include:

- The new Short-term Skilled Occupations List (STSOL) which is a shortened list of occupations that are eligible to be sponsored for temporary and permanent residency and which may be subject to review every six months based on advice from the Commonwealth Department of Employment.
- Occupations on the STSOL also only allow for a two-year Subclass 457 visa grant, with a further two-year renewal and a limited pathway for permanent residence.
- The new Medium and Long-term Strategic Skills List (MLTSSL), which may be reviewed annually based on advice from the Commonwealth Department of Employment.
- While occupations on the MLTSSL allow for a four-year Subclass 457 visa with options for renewal and a pathway for permanent residence, it is of concern that this occupations list may change annually.
- Caveats, which is a relatively novel concept for Australia's immigration laws, and which refers to a restriction placed on a particular occupation that remains on the list of eligible skilled occupations. Caveats may relate to various factors such as:
  - Specified post-qualification relevant work experience;
  - The nominated base salary must be at least a certain amount;
  - The employer must meet certain turnover and/or employee requirements;
  - The employer must be situated in a regional location (as defined by law).

The Department of Immigration and Border Protection (the Department) has interim guidelines provided on 1 July 2017 in regard to caveats. For example, Corporate Services Manager (ANZSCO Code 132111) has a caveat relating to the base salary in addition to the requirement that the proposed employer has a minimum annual turnover of not less than AUD 1,000,000 and employs a minimum of five employees. In the case of an overseas business that is starting up a business operation in Australia, the actual business sponsor may not be able to meet the turnover and/or employee caveats in their own right.

Under the Department's policy guidelines, Departmental officers may take into consideration broader circumstances when assessing these caveats as for example if the overseas 'parent company' would meet the turnover/employee caveats and the Australian employer can demonstrate that there are special circumstances which warrant a flexible approach as for example a project of particular importance to Australia, economic benefit to Australia, supports an innovation agenda, the parent company has a long history of successful business operations, or where there may be support through a State/Territory Government:

- The training benchmark requirements, which came into effect on 1 July 2017, which prescribe the type of training that may count towards meeting this requirement and expenditure that cannot count towards meeting this requirement.
- The requirement that the employer demonstrates past compliance with the sponsorship training obligations under the 457 program, in accordance with the training benchmark requirements which were in effect prior to 1 July 2017. This means that employers who are approved sponsors under the 457 program must continue to meet the previous legislative framework for each financial year that they were an approved sponsor up to 30 June 2017 and the new legislative framework from 1 July 2017, which is much more restrictive.

March 2018 proposed changes

The Australian Government has embarked upon the most significant reforms in more than 40 years, and has flagged that in 2018 it will create a new federal super-ministry of Home Affairs headed by the current Minister of Immigration, Peter Dutton, which will include the Australian Federal Police, the Australian Security Intelligence Organisation and the Australian Border Force (the latter being the operational enforcement arm of the Department currently).

From March 2018, the training benchmark requirements will be replaced by the skilling Australians Fund Training Levy, which will apply for both the Subclass 457 and 186 Employer Nomination Permanent residence programs. The levy which is forecast to generate over AUD 1.2 billion in revenue for the Australian Government over four years, will be introduced with the aim to providing training to Australian workers with a particular focus on apprentices, trainees and highly skilled workers.

In March 2018 the Temporary Skills Shortage Visa will replace the subclass 457 visa and at that time it is anticipated that there will be further changes including:

- Occupations on STSOL will require IELTS 5 (with a minimum score of 4.5 on all components) to meet the English language requirement.
- Occupations on MLTSSL will require IELTS 5 (with a minimum score of 5 in each component) to meet the English language requirement.
- Implementation of a 'test' to ensure employers who access the Temporary Skills Shortage visa program adopt non-discriminatory employment practices so as to safeguard the jobs of Australians.
- Mandatory labour market testing of the Australian labour market to demonstrate whether a suitably qualified and experienced Australian citizen or permanent resident is readily available to fill the prescribed position.

The only exemption to labour market testing is where this requirement would be contrary to the multi-lateral agreements that Australia has entered into which facilitate the movement of people between countries for employment purposes.

Australia is a signatory to the World Trade Organisation General Agreement on Trade in Services 1994, which allows for the movement of persons seeking access to the employment market on a temporary basis.

Australia is a signatory to a number of bilateral and regional free trade agreements (FTAs) that allow for the movement of persons supplying services without the need for labour market testing.

Australia's FTAs are complex. Australia currently has the following FTAs in force:

- Association of southeast Asian Nations (ASEAN) – Australia – New Zealand FTA.
- Australia – Chile FTA.
- Australia – New Zealand Closer Economic Relations.
- Australia – United States FTA.
- Japan – Australia Economic Partnership Agreement.
- Korea – Australia FTA.
- Malaysia – Australia FTA.
- Singapore – Australia FTA.
- Thailand – Australia FTA.
- China – Australia FTA.

Caveats and international trade obligations

The following occupations are subject to caveats:

- Chief Executive/Managing Director (ANZSCO 111111);
- Corporate General Manager (ANZSCO 111211);
- Corporate Services Manager (ANZSCO 132111);
- Sales & Marketing Manager (ANZSCO 131112);
- Supply & Distribution Manager (ANZSCO 133611).

However, caveats will not apply in respect of these positions where International Trade Obligations apply. The Department has advised that some caveats which require the nominated base salary to be at least a certain amount do not apply where the position involves an Intra-Corporate Transfer to which an International Trade Obligation applies.

This effectively means that a caveat which references an International Trade Obligation does not apply if the nominee is:

- An intra-corporate transferee (to Australia); and
- Is currently working for an overseas business that operates in a World Trade Organisation country.

BDO comment

The complexity of Australia's immigration laws, and their constant change, challenge businesses at a time when there is enormous demand for global mobility.

Australia's ongoing reform agenda means that Human Resources, mobility teams and their immigration lawyers and advisers, will continue to grapple with a very complex and highly technical area of law. There is a need for careful planning in regard to workforce needs to ensure that businesses meet their inbound and outbound requirements.

Watch this space as Australia continues its significant reform of Australia's immigration laws, national intelligence and domestic security arrangements.

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BELGIUM

MANAGEABLE AND FEASIBLE WORK

It was not easy to achieve, but on 15 March 2017 the Law on Manageable and Feasible work was finally published in the Belgian Official Gazette. The purpose of the law is to modernise our labour law. In today's society the employers demand more flexibility, while the employees need more grip on their work-life balance.

The new law will be implemented retroactively as from 1 February 2017. However, this does not apply to all the measures. Below you will find a brief overview.

Measures that are directly applicable

- Flexible work arrangements – the reference period for the calculation of the average weekly working time is now one calendar year or 12 consecutive months.
- Voluntary overtime hours – employees can accept the offer of the employer to perform voluntary overtime hours of maximum 100 hours per calendar year (can be increased to 360 hours by a generally binding collective labour agreement).
- Increase of the internal overtime limit of hours – employees can now work 143 hours before taking mandatory compensatory rest. This limit can be increased by a generally binding collective labour agreement.
- Investment in training – the inter-professional training target of 1.9% of the global wages is converted to an average of five days of training days per full time equivalent per year. For now an average of two days are allowed.
- Occasional telework – a legal framework will be developed for occasional telework in which employees are allowed to telework on an occasional basis for personal reasons or in case of force majeure.

Measures that should first be activated on sectoral level

- Expansion of the plus minus conto – the purpose of the plus minus conto is to allow variations in the work schedule in accordance with fluctuations in production cycles. This possibility that already exists in the automotive industry is now extended to the entire private sector.
- Temporary work agreement for an indefinite period – interim agencies have the possibility to conclude employment contracts for an indefinite period with temporary workers. The obligation that temporary work is only possible for the execution of types of temporary work permitted by the law, stays intact.
- Career saving – the career saving account allows employees to save time in order to later transform it into leave during their career.
- Donation of conventional leave – scheme that allows the employer to offer conventional leave to an employee who has taken all of their holidays and whose child younger than 21 years is seriously ill.

Reform and expansion of existing measures

- Reformation employers regrouping – the law foresees among others the simplification of the ministerial approval to function as an employers group, provisions to determine to which joint committee the group belongs, etc.
- Simplification of part-time work – certain aspects of part-time work are simplified and modernised in order to lighten the administrative burden on employers. This will enter into force on 1 October 2017.
- Flexible schedules – a legal framework is defined in which the employee can determine the start and the end of his working day, within certain limits. Employers who already use such a scheme are obliged to include this in a collective labour agreement or the working regulations by 30 June 2017.
- Expansion of palliative care leave and time credit – the palliative leave will be extended by one month and time credit will be extended from 48 to 51 months.
- E-commerce – the possibility to perform night work is extended to the performance of all logistical and support services related to electronic commerce.

BDO comment

The Law on Manageable and Feasible work includes very important changes regarding labour law and employers need to ensure they are compliant. Do not hesitate to contact us in case of further questions.

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CANADA

VOLUNTARY DISCLOSURES PROGRAM CONSULTATIONS

On 9 June 2017, the Canada Revenue Agency ('CRA') released 'For discussion purposes only – Draft Information Circular – IC00-IR6 – Voluntary Disclosures Program' (IC00-IR6). This outlines their policy for disclosures involving income tax and source deductions. Of considerable interest, the proposed changes narrow the eligibility for the Voluntary Disclosure Program ('VDP') and impose additional conditions on taxpayers applying under the program.

If the proposed changes are implemented, the effective date would be 1 January 2018.

Voluntary disclosure program – overview

The VDP promotes compliance with Canada's tax laws and regulations by providing taxpayers with an opportunity to voluntarily come forward and correct any previous omissions in their dealing with the CRA. Under the current VDP, taxpayers can request that CRA provides relief from prosecution and penalties. Also under the current program, anyone can use the VDP, including individuals, businesses, employers, payers, trusts and estates, whether a resident or a non-resident of Canada.

The CRA has recently conducted a review of the VDP and has begun consulting with the general public on the proposed changes to the program. Comments are requested by 8 August 2017 and it is expected that the Minister of National Revenue will announce formal changes to the program in the fall of 2017.

BDO Canada will be submitting comments to the CRA for guidance on some of the proposed changes and will provide any update as received.

Canadian non-resident employers – international payroll

The information outlined below is to inform and provide Canadian non-resident employers with the importance of disclosure to the CRA and the CRA's upcoming changes to the VDP. We commonly use this program to assist non-resident employers to ensure all filings and tax obligations are up to date in Canada, as well as other noncompliance. For example, subject to meeting certain tests, the non-resident employer certification offers the removal of the requirement to withhold tax from the salary, wages, and other remuneration that the employer pays to 'qualified' non-resident employees. In many cases, the Canadian non-resident employers were not compliant with Canadian payroll taxes, therefore a VDP was necessary to bring all filings and obligations up to date prior to the non-resident employer qualifying for the certification.

Proposed changes to 'tighten up' the VDP

- Under the proposed VDP, the 'no name' process will be eliminated. However, prior to a VDP application, taxpayers will be able to participate in a preliminary discussion about their situation on a 'no name' basis for a better understanding of the VDP program process and the risks involved.
- The CRA has proposed two tracks for income tax disclosures, one for applications under the General Program, and one for applications under the Limited Program. Acceptance is not guaranteed under either program. If accepted under the General Program, applications will be eligible for penalty relief and partial interest relief. In contrast, applications that disclose major non-compliance will be processed under the Limited Program and if accepted, will receive reduced relief under the VDP.
- The taxpayer must include payment of the estimated taxes owing together with their VDP application.
- Corporations with gross revenue in excess of CAD 250 million in at least two of its last five taxation years will generally not be accepted, as the CRA considers that such corporations should follow normal procedures to amend their tax filings.

BDO comment

Canadian non-resident employers with employees in Canada should ensure they are compliant in Canada. If not, determine whether or not a VDP can be completed prior to the proposed upcoming changes.

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THE NETHERLANDS

DAYS OF PHYSICAL PRESENCE TEST

Based on the OECD model convention, most double tax treaties revert the right to tax employment income to the country in which the employment activities are performed as well as the country of tax residence.

However, an exception is made to this rule, with respect to the income from employment when the employee does not spend more than 183 days (in a calendar year, tax year or period of 12 months beginning or ending in the tax year). When also the other conditions (no employer and a permanent establishment in the country of the activities) are fulfilled, only the country of residence of the employee will be entitled to tax the income.

The counting of the days of presence seems straightforward. If, at any moment, a taxpayer is present in the working country, this is considered as a full day of physical presence and needs to be included for the test. However, in a recent court case amongst others, the calculation of the days was at stake.

In this court case a resident of Belgium had been working 181 days in the Netherlands in the reference period for calculating the 183 days. Besides these working days, the taxpayer was present in the Netherlands for private purposes on several other days. Therefore, the total number of physical days of presence in the Netherlands had exceeded the 183 days.

The lower Dutch courts decided that the number of days the taxpayer was present in the Netherlands for private purposes should not be included for the physical presence test. As a result, since it was determined there was no material employer or permanent establishment in the Netherlands, the Dutch court decided that only Belgium had the right to tax the income relating to the Dutch working days.

Finally, the highest Dutch court decided that, based on the explanation of the word presence (commentary on the OECD Model convention), all days of presence (working or non-working) in principle need to be taken into account for calculating the number of days of physical presence. So, at the end, calculation of the days seems indeed to be straightforward.

BDO comment

As a consequence of the above, please bear in mind that all days should be taken into account to determine your tax position. The days spent in the other country for non-business purposes could change your tax position.

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SAUDI ARABIA

THE GOVERNMENT OF SAUDI ARABIA RECENTLY INTRODUCED MEASURES TO INCREASE THE NUMBER OF SAUDI NATIONALS EMPLOYED LOCALLY

Extensive use of foreign labour has helped the kingdom develop in recent decades and the demand for expatriates has been widespread, both in low skilled services and highly specialised areas such as medicine and law.

The Saudi Arabian government has recently been embarking on a nationalisation process, mainly involving raising the barriers to entry and to renewal of contracts. This has had limited success. A new expat levy has therefore been introduced from July 2017 for expats working in commercial entities. There are two kinds of fees; the first relates to the number of family members an expat has and the second is in respect of the Labour office fee already imposed on companies with expat employees.

BDO comment

Expatriates still form a key part of the Saudi Arabian workforce, however the government is continuing to try and promote an increase in employing local Saudi nationals. Saudi Arabia is not alone in this. Companies operating in the kingdom should ensure they comply with the new expat levy.

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SWEDEN

LEGISLATIVE PROPOSAL FROM THE SWEDISH TAX AGENCY REGARDING THE IMPLEMENTATION OF THE TERM 'ECONOMIC EMPLOYER'

Sweden is one of the few countries not applying the concept of economic employer, but the legal employer. In a proposal set forward by the Swedish Tax Agency on 19 June 2017, the concept 'economic employer' has been suggested to be incorporated into Swedish domestic law. The legislative changes, if passed, would apply from 1 January 2019.

Proposed change

The proposal mainly focuses on the change of view from 'legal employer' to 'economic employer' and will foremost affect the determination of a Swedish non-tax resident's tax liability under 'the 183 days rule' found in Swedish domestic law. The domestic rule is similar to the one commonly found in article 15 p.2 of the OECD's model tax convention.

Current domestic legislation

Generally, a non-tax resident is liable for tax on income deriving from work performed in Sweden. However, with the exemption to the general rule there is the '183 days rule', which is based on the same rule found in the OECD's model convention. Under current Swedish domestic law, a non-tax resident could be exempt from Swedish tax liability under certain provisions. The income could be exempt if the employee would be paid from a foreign employer without a permanent establishment in Sweden, the employee would not be present in Sweden for more than 183 days in a 12 month consecutive time period and no costs are recharged to Sweden. The result is no tax liability in Sweden based on domestic legislation.

Swedish domestic law uses the concept of 'legal employer', that is the company which the employee is formally employed by and receives remuneration from, is considered to be the employer. This is regardless of which company/employer actually benefits from the work performed or bears the actual cost for the employee (hence 'economic employer'). Sweden has not been able to tax income which the tax treaties in general allow it to, as the tax treaties cannot extend the right to tax. The Swedish Tax Agency has therefore suggested a change of view from 'legal employer' to 'economic employer' in order to be able to tax Swedish non-tax residents who work for and are paid by a foreign employer. The purpose is also to achieve a more balanced competition between workers employed by a company in Sweden and employees who are employed by a foreign company and are sent to work at its Swedish establishment.

BDO comment

The changes may lead to an increased number of tax liable employees working in Sweden. The proposed change of the concept will not affect which company/employer has the obligation to report and pay tax withholdings and employer social contributions in Sweden. However, there could be a situation where the employee has to assume these obligations.

Please do not hesitate to get in touch with us if you have any questions regarding the proposed changes.

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UNITED STATES OF AMERICA

WHY THE TRUMP TAX REFORM PLAN WILL CREATE AN EXPLOSION OF MOBILITY OPPORTUNITIES IN THE US!

An interesting and alternative personal opinion on the possible impact of potential US tax reforms

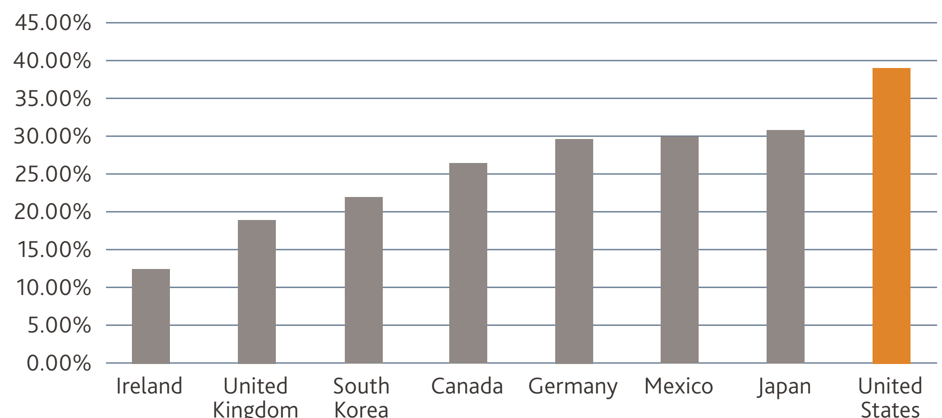
We are now about six months into the Trump administration in the United States and it is time for tax reform to hit the legislative agenda and not a moment too soon. Back in April, tax reform proposals started flying around the news with excitement building about cutting US corporate income tax rates to 15%. Is this a good thing? Probably, however could it be possible that corporate tax rate reform creates unprecedented demand for foreign workers to come to the United States, fuelling a huge migration and mobility explosion?

It would be easy to conclude that President Trump's travel bans, or proposed building of a wall along the US/Mexican border, or the new point system immigration proposal were designed to limit migration to the United States. It is equally possible the exact opposite effect could take place. In fact, that may just be the policy.

Let's take a look at some interesting facts. Right now the US has the highest rate of corporate taxation. The chart below shows that among OECD countries, the United States is at the top end. Many are quick to point out that the corporate tax rate is not indicative of the tax that corporations pay but on the other hand, high tax rates are assumed by many to be a discourager of business investment. Accepting the corporate tax rate argument means that the US is not the best place to headquarter a business when compared to Ireland or even the UK.

Country	Corporate tax rate
Ireland	12.50%
United Kingdom	19.00%
South Korea	22.00%
Canada	26.50%
Germany	29.72%
Mexico	30.00%
Japan	30.86%
United States	39.10%
Average	**26.21%**

Corporate tax rate



Source: ***https://tradingeconomics.com/united-states/corporate-tax-rate*** *(various countries)*

The proposal to lower the corporate tax rate to 15% should make the United States a preferred destination for locating a company provided we accept the argument that tax rates are a primary driver of where a business locates.

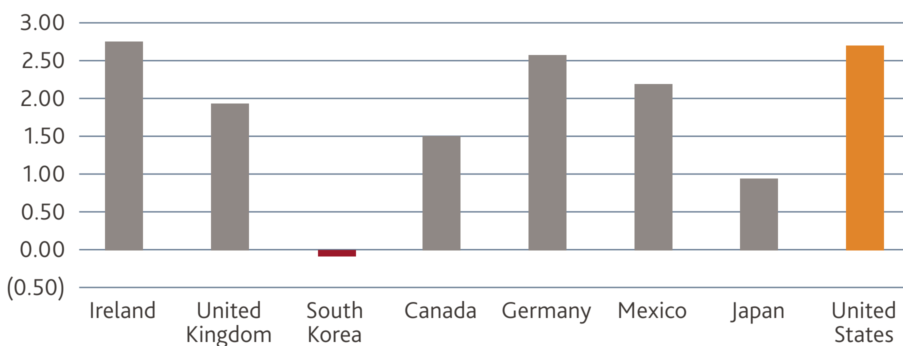
The question then becomes what other attributes do investors and companies look for when they consider business location or relocation. Thinking back a little to recent history, it is easy to remember that China became a preferred business destination for manufacturing concerns looking to take advantage of lower cost labour. India became a preferred destination for professional services for the same reason coupled with English language skills. Clearly tax is an important factor for a business location decision but it is not the only contributing factor.

Property right and property protection are probably very high on the list of 'must haves' for business location attributes. It would be pretty safe to say that if you made a business investment anywhere you'd want to have assurance that your investment was protected by a strong historical legal precedent of property rights. ***Check out Wikipedia 'list of nationalisations by country'*** and you'll see that most of the recent US history on this topic has to do with bailing out failing banks. Do you remember 'too big to fail?' From a foreign investor point of view, that might be a very satisfying assurance that investment in the United States is protected by the 'full faith and credit of the United States.'

What about people and other resources? Land, there's lots of that in the United States and the recent ***Foxconn announcement*** to expand its television panel manufacturing in Wisconsin shows this perfectly. The facility is expected to be built on a 1,000 acre site, that's 4 square kilometres. Moreover, Foxconn is seeking local incentives worth ***USD 2.85 billion*** from the state and local governments. Considering Apple's experience with the ***European Commission tax ruling of EUR 13 billion*** tax charge for 'illegal state aid' and you could start to see a friendly attractive environment in Wisconsin for foreign direct investment. The example further demonstrates the willingness of state and local authorities to incentivise foreign direct investment in the United States, to create jobs in America's heartland, railing against decisions such as that made by the European Commission.

If those reasons weren't enough, let's take a quick look at labour productivity and in particular the growth in labour compensation per hour worked for the same 8 countries in 2016. ***OECD data*** shows a surprising result when you look at the charts below:

Country	% Growth labour compensation/hour worked
Ireland	2.76
United Kingdom	1.94
South Korea	(0.08)
Canada	1.51
Germany	2.58
Mexico	2.20
Japan	0.95
United States	2.71
Average	**1.82**



Ireland and the United States have nearly equal increases in labour costs in 2016.

Why go to Ireland? That's the question. What continues to make Ireland more attractive than the US if the United States adopts a 15% corporate tax rate? Labour costs are nearly the same. Local government will subsidise development. Property values and rights are solid. You don't have European Commission issues and if you have a 15% corporate tax rate in the United States there's really no reason not to come.

BDO comment

The Trump tax reform could create an explosion of mobility and migration to the United States simply because it is a great place to do business. Corporations, unlike individuals, do not need visas to relocate around the world to take advantage of tax opportunities. With an open for business climate, the US should become a very tax competitive place to invest and work. Coupled with other attributes such as an indestructible commitment to property protection and rights, the US will likely become the destination of choice for global assignees in the near future.

What has made corporate tax structures outside the US so successful for global multinational organisations is the opportunity to reorganise where the corporation can take advantage of lower corporate tax rates in countries such as Ireland or Luxemburg. If the US corporate tax rate is reduced to the proposed 15% rate, the incentive to organise and structure US corporate businesses outside the US is significantly reduced, making the US a 'tax haven' country. With an equal tax playing field, non-US businesses may consider setting up US corporate structures to take advantage of the opportunity to access US markets. This may translate into an increase in foreign national inbound transferees to the US and a labour skills transfer from the rest of the world. Time will tell.

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CURRENCY COMPARISON TABLE

The table below shows comparative exchange rates against the euro and the US dollar for the currencies mentioned in this issue, as at 23 August 2017.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Australian Dollar (AUD)	0.67253	0.79198
Canadian Dollar (CAD)	0.67594	0.79603
Euro (EUR)	1.00000	1.17753
US Dollar (USD)	0.84914	1.00000

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