

EXPATRIATE NEWSLETTER

GERMANY

German 183 day double tax treaty issue

[READ MORE 2](#)

MALAYSIA

Malaysia 2016 budget

[READ MORE 4](#)

NETHERLANDS

Dutch crisis levy 2014

[READ MORE 7](#)

AUSTRALIA

DATA MATCHING PROGRAMME – VISA HOLDERS, SPONSORS AND MIGRANT AGENTS

In October 2015, the Australian Department of Immigration and Border Protection (DIBP) issued a "Notice of Data Matching Programme", announcing that it will provide the Australian Taxation Office ("ATO") with names, addresses and other details of visa holders, their sponsors and migration agents for the 2013/14 to 2016/17 financial years.

It is estimated that records relating to approximately one million individuals will be provided. The data items that will be provided include:

Visa applicants and sponsors

- Address history for visa applicants and sponsors
- Contact history for visa applicants and sponsors
- All visa grants
- Visa grant status by point in time
- Visa subclass code and descriptor
- All international travel movements undertaken by visa holders (arrivals and departures)
- Sponsor details (subclass 457 visa)
- Education providers (educational institution where the student visa holder intends to undertake their study).

All migration agents

- Address history for migration agents
- Contact history for migration agents.

How the data will be utilised

The records will be electronically matched by the ATO with certain sections of its data holdings to identify non-compliance with registration, lodgement, reporting and payment obligations under taxation laws.

Purpose of the data matching programme

1. Ensure that taxpayers are correctly meeting their taxation obligations.
2. Ensure compliance with registration, lodgement, correct reporting and payment of taxation and superannuation obligations.
3. Improve intelligence on the overall level of compliance with taxation obligations by target group.
4. Assist in developing and implementing administrative strategies to improve voluntary compliance.
5. Test the veracity and strengths of existing risk detection models and treatment systems.
6. Identify areas for improvement in the ATO's suite of compliance models and treatment systems.
7. Identify potentially new or widespread fraud methodologies and those entities controlling or exploiting those methodologies.

BDO comment

Expatriate employees working in Australia, as well as their employers – whether locally based or overseas, should of course be conscious of their tax obligations in Australia and act accordingly. This move is likely to result in cases of non-compliance being exposed which may result in extra and unbudgeted costs to the employee and/or employer. Employers of expatriate employees should consider reviewing their internal protocols to ensure that they are tax compliant in Australia and encourage their expatriate employees to do the same.

CONTENTS

- ▶ AUSTRALIA
- ▶ GERMANY
- ▶ MALAYSIA
- ▶ MALTA
- ▶ NETHERLANDS
- ▶ SWEDEN
- ▶ UNITED KINGDOM
- ▶ UNITED STATES
- ▶ Currency comparison table

KUMAR KRISHNASAMY

kumar.krishnasamy@bdo.com.au

EDITOR'S LETTER

Expatriate tax updates provide 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.

ANDREW BAILEY

andrew.bailey@bdo.co.uk
+44 207 893 2946

The articles contained in this newsletter have been prepared for your general information only and should not be acted or relied upon without first seeking appropriate professional advice for your circumstances.

GERMANY

NEW INCOME TAX RATES AND ASSESSMENT CEILINGS IN THE GERMAN SOCIAL SECURITY SYSTEM (FROM 1 JANUARY 2016)

Annual employment income (EUR)	Minimum withholding rate
8,652 and less	0%
Between 8,653 - 13,669	14%
Between 13,670 - 53,665	24%
Between 53,666 - 254,446	42%
Over 254,447 (Married couple = EUR 508,894)	45%

Social taxes

On top of the wage tax, a solidarity surcharge of 5.5% and church tax (if applicable) of 8%/9% of the income tax due, will also have to be withheld.

Social security contributions

19.325% is the employer portion and 19.325% is the employee portion, for a total contribution of 38.65%. These amounts are broken down as follows:

	Employee	Employer
1. Medical insurance	7.3%	7.3%
2. Health care insurance	1.175%	1.175%
3. Pension insurance	9.35%	9.35%
4. Unemployment insurance	1.5%	1.5%

Depending on the insurance provider an extra payment is due (generally around 0.8% or 0.9%) towards medical insurance. This extra payment is borne only by the employee. For employees with no relevant children (over the age of 23) 0.25% has to be paid additionally towards health care insurance by the employee. There is a contribution ceiling for the pension and unemployment insurance amounting to EUR 6,200.00 per month in 2016 (for individuals who live in the western part of Germany) and EUR 5,400.00 per month in 2016 (for the eastern part of Germany). For medical and health-care insurance the contribution ceiling is EUR 4,237.50 per month in 2016.

BDO comment

Please review the changes, and consider what impact they may have.



GERMAN PARTICULARITIES WITH REGARDS TO THE 183 DAY RULE (ART. 15 PARA. 2 OECD MODEL DOUBLE TAX TREATY)

Article 15 of a Double Tax Treaty (DTT) normally refers to the allocation of employment income (occasionally referred to as dependent personal services) and is often of central importance in relation to Expatriate tax matters.

The general rule of Art. 15 para. 1 of a DTT is that the income from employment is taxable in the State where the employment is actually exercised. Art. 15 para. 2 contains, however, a general exception to the rule in Art. 15 para. 1. All three conditions prescribed in Art. 15 para. 2 DTT must be satisfied for the remuneration to qualify for the exemption. The first condition (and likely the most common tool for avoiding double taxation) is the 183-day clause. According to this condition the income from employment of an individual is only taxable in her/his State of residence if the individual is not present in the state of activity for a period exceeding 183 days in a 12-month period commencing or ending in the fiscal year concerned (assuming that the two other conditions are also met).

With this in mind, the method of counting the days an individual spends in the other state can be of decisive importance in relation to the 183-day clause. Concerning this point, the German Federal Ministry of Finance stipulated some important notes in a recent circular regarding the treatment of income from employment according to Double Tax Treaties. This degree is binding for the German tax authorities and represents the "German" interpretation of the various regulations stated in the respective DTTs.

DTT refers to days of presence

If the respective DTT relies on days of presence, the German tax authorities correspond to the official OECD commentary and only counts days of physical presence. In this regard days of presence are:

- Part of a day,
- Days of arrival,
- Days of departure,
- All other days spent inside the State of activity such as Saturdays and Sundays, national holidays, holidays before, during and after the activity, short breaks (training, strikes, lock-out, delays in supplies),
- Days of sickness (unless they prevent the individual from leaving and he would have otherwise qualified for the exemption).

DTT refers to days of activity

In the case the respective DTT refers to the length of the activity or project the German tax authorities only count the days which the individual spends in the State of activity exercising his employment. Days on which the activity could not be exercised exceptionally due to strikes, lock-out and delays in supplies have to be taken into account too.

Work free days which the individual spends in the State of activity such as Saturdays and Sundays, national holidays, holidays before, during and after the activity shall not be counted.

Particularities regarding the change of reference period or State or residency

If the reference period changes (for example tax year to 12-month period) in the course of a DTT update, the German tax authorities made clear that a 12-month period can start even if the start reaches into a period where the "old" DTT was still valid.

BDO comment

Please review the changes, which may affect future DTT residency determinations for those with ties to Germany.

LEONARD ROSSEL

leonard.rossel@bdo.de

Example 1

A German employer assigns an employee who is resident in Germany to UK for the period 15 November 2010 till 31 May 2011 (198 days in total).

According to Art. 32 para 2 lit a bb DTT between Germany and UK (DTT UK) the DTT UK 2010 has to be applied as from 1 January 2011. The "new" DTT contains as reference period a 12-month period commencing or ending in the fiscal year concerned. That means that the 2010 German income tax return has to be prepared on the basis of the "old" DTT between Germany and UK, which refers to the tax year as reference period. Therefore the taxation right on the income from employment remains in 2010 with Germany as the employee did not spend more than 183 days in the UK in the UK tax year 2010/2011 (142 days in the period 6 April 2010 till 5 April 2011).

However for 2011 the 12-month period has to be applied as reference period according to Art. 14 para. 2 DTT UK 2010, so that the taxation right on the employment income which the employee received in the period 1 January 2011 till 31 May 2011 has to be allocated to the UK, as the employee spend 198 days in the UK in a 12-month period starting in 2010 and ending in the tax year 2011.

Furthermore the change of the State of residency needs to be considered for counting the days of presence. Days during which the employee is a resident of the source State should not be taken into account in the calculation.

Example 2

According to the respective DTT an employee is resident of Germany in the period from 1 January until 30 April 01. This employee becomes resident of the USA in the period 1 May until 31 December 01.

Until 30 April 01 the employee is working for a German employer. In the period from 1 March until 6 March 01 the employee was assigned to the USA. The German employer does not maintain a permanent establishment in the USA.

The taxation right on the employment income for the period until 30 April 01 remains with Germany, as Germany is the State of residence for this period and the employee did not spend more than 183 days in the USA (the days of presence in the period 1 May until 31 December 01 should not be taken into account).

MALAYSIA

BUDGET 2016 HIGHLIGHTS

The 2016 Budget, with the theme of "Prospering the Rakyat", was tabled in Parliament on 23 October 2015. Introduced at a time shrouded with the uncertainty of a sluggish global economy and stagnating oil and gas prices, the 2016 Budget is geared towards improving the lives of the Malaysian people whilst setting out the Government's proposed next steps towards achieving a developed nation status in line with Vision 2020. The 2016 Budget aims to prioritise the following:

- Strengthening Economic Resilience;
- Increasing Productivity, Innovation and Green Technology;
- Empowering Human Capital;
- Advancing Bumiputera Agenda; and
- Easing the Cost of Living of the Rakyat.

The 2016 Budget, which allocates MYR 267.2 billion, comprising Operating Expenditure of MYR 215.2 billion and Development Expenditure of MYR 52 billion, represents an increase of MYR 6.5 billion from the revised allocation of MYR 260.7 billion in 2015. The Government revenue collection in 2016 is estimated at MYR 225.7 billion which is an increase of MYR 3.2 billion from 2015. Based on the forecast of revenue and expenditure, the fiscal deficit is expected to reduce to 3.1% of GDP in 2016 (from the revised 3.2% deficit in the preceding year).

The Government of Malaysia plans to implement several significant projects in a bid to boost domestic investment. These projects include the development of the Malaysian Vision Valley (a 108,000 hectare area from Nilai to Port Dickson), Cyber City Centre in Cyberjaya, an airport township (KLIA Aeropolis), and nine high impact investments in the healthcare, education, tourism, communication software and infrastructure sectors.

Additionally, and in line with the theme of the 2016 Budget, the Government has taken further steps to alleviate the burden on the Rakyat by extending the existing list of zero-rated or exempted items to cover basic necessities such as medicines and selected food products.

The Government has also taken steps towards addressing the inequalities prevalent in Malaysia by extending a greater degree of assistance to the lower income classes via Bantuan Rakyat 1 Malaysia (BR1M) subsidies. The higher income classes in Malaysia on the other hand will experience an increase in the rate of income tax by 1% to 3% for individuals with chargeable income exceeding MYR 600,000.

The 2016 Budget, representing the first step of the 11th and final Malaysia Plan towards achieving developed nation status in 2020, is in line with the goal of creating sustainable growth through harnessing and increasing domestic demand, encouraging contributions from the external sector and bolstering economic fundamentals whilst ensuring the welfare of the Rakyat.

Some of the pertinent personal tax changes are listed below:

Income tax rates for resident individuals

The following rates have increased for 2016:

Chargeable income (MYR)	Current tax rate	Proposed tax rate	Increase
600,000 - 1,000,000	25%	26%	1%
1,000,001 +	25%	28%	3%

All other bands remain unaffected.

Income tax rates for non-resident individuals

Income tax for non-residents is to be increased from 25% to 28% for 2016.

Personal tax relief for taxpayer whose spouse has no income and/or pays alimony to former spouse

Personal tax relief for a taxpayer who fits the above criteria is increased from MYR 3,000 to MYR 4,000 from 2016.

Personal tax relief for parental care

Parental care relief is introduced whereupon the taxpayer is allowed to claim MYR 1,500 relief for a mother and MYR 1,500 relief for a father.

This relief can be equally shared with other siblings provided that the total relief claimed shall not exceed MYR 1,500 per mother and MYR 1,500 per father.

The claim is subject to the following conditions:

- i. Such taxpayer does not claim expenses on medical treatment and care of parents;
- ii. Parents are the legitimate natural parents and foster parents in accordance to the respective law subject to a maximum of 2 persons;
- iii. Parents aged 60 years and above;
- iv. Parents reside in Malaysia in the current year of assessment; and
- v. Parents have an annual income not exceeding MYR 24,000 per annum for each parent.

Personal tax relief for children below 18 years of age

Personal tax relief for children below 18 years of age is to be increased from MYR 1,000 to MYR 2,000.

Personal tax relief for children studying at tertiary level

Personal tax relief on fees for tertiary education is to be increased from MYR 5,000 to MYR 7,000 per annum.

Personal tax relief on employees' contribution to social security protection scheme (SOCSO)

Personal tax relief on employees' contribution to SOCSO pursuant to the Employees' Social Security Act 1969 up to a maximum of MYR 250 per annum.

Personal tax relief on gratuity on retirement or termination of employment contract

With the introduction of the new paragraph 25D in Schedule 6, the Director General extend the exemption under that Schedule to any sum received by way of gratuity on retirement from an employment under any written law or termination of an employment contract other than paragraphs 25, 25A, 25B or 30A of that Schedule.

The sums shall not exceed an amount ascertained by multiplying the sum of MYR 1,000 by the number of completed year of service of that individual.

Employment gross income

The proposed amendment provides that any gross income from an employment which is receivable in any year of assessment is taxed in the year it is received. It also provides that any income receivable by an employee who will be leaving Malaysia is deemed to have been received for the period before the employee leaves Malaysia.

BDO comment

Please familiarise yourself with the proposed changes and consider how this may affect individuals taxable in Malaysia.

WOON YOKE LEE

woonyl@bdo.my



MALTA

HIGHLY QUALIFIED PERSONS RULES

The Highly Qualified Persons Rules are regulations (Legal Notice 106 of 2011, amended by Legal Notice 428 of 2011, 306 of 2012, 152 of 2013, 16 of 2014 and 225 of 2015) designed to stimulate foreign investment in Malta.

The rules state that expatriates in receipt of income arising from qualifying contracts of employment in Malta may opt to pay tax at a reduced flat rate of 15% on such income. This applies to income earned after 1 January 2010 and to employees of companies licensed or recognised by the Malta FSA, Malta Gaming Authority, or Transport Malta (i.e. the competent authority).

The conditions the individual must satisfy to qualify for this ruling are as follows:

- The employment activity must constitute an eligible office¹⁻;
- The income must be derived by means of a qualifying contract of employment²⁻; AND
- The qualifying contract of employment of the eligible office is in respect of the employment of a qualifying beneficiary³⁻.

1 – Eligible office

The employment activity in the contract of employment is an eligible office if it is with a company recognised by a competent authority, or is one of following senior positions:

Chief Executive Officer; Chief Risk Officer (inc. Fraud and Investigations Office); Chief Financial Officer; Chief Operations Officer (Inc. Aviation Accountable Manager); Chief Technology Officer; Chief Commercial Officer; Portfolio Manager; Chief Investment Officer; Senior Trader/Trader; Senior Analyst (inc. Structuring Professional); Actuarial Professional; Chief Underwriting Officer; Chief Insurance Technical Officer; Odds Compiler Specialist; Head of Research and Development (inc. Search Engine Optimisation and Systems Architecture); Aviation Continuing Airworthiness Manager; Aviation Flight Operations Manager; Aviation Training Manager; Aviation Ground Operations Manager; Head of Marketing (inc. Head of Distribution Channels); Head of Investor Relations.

2 – Qualifying contract of employment

A qualifying contract is an employment contract giving rise to a minimum of EUR 81,457 income (adjusted in terms of the RPI for 2015). This excludes the annual value of any fringe benefits. Any income derived from a qualifying contract which exceeds EUR 5 million would not be subject to tax in Malta on the amount above EUR 5 million.

3 – Qualifying beneficiary

A qualifying beneficiary must:

- Derive income subject to tax and received in respect of work or duties carried out in Malta, or in respect of any period spent outside Malta in connection with such work or duties;
- Be domiciled in any country other than Malta;
- Be protected as an employee under the provisions of Maltese law;
- Prove to the satisfaction of the competent authority that he or she is in possession of the required specific competence and professional qualifications;
- Fully disclose for tax purposes and declare emoluments received in respect of income from a qualifying contract of employment;
- Prove to the competent authority that he or she performs the activities of an eligible office;
- Be in receipt of regular and stable resources that are sufficient to maintain themselves and the members of their family without recourse to social assistance in Malta;
- Reside in accommodation regarded as normal for a comparable family in Malta, thereby meeting all the general health and safety standards in force in Malta;
- Be in possession of a valid travel document and of sickness insurance both for themselves and their family.

Taxpayers who already benefit from the incentives for investment services and insurance expatriates (Article 6 of Income Tax Act) are excluded from this scheme.



BDO comment

Individuals who meet the requirements set out above and wish to benefit from the 15% tax rate should:

- Apply to the relevant competent authority in order to obtain formal determination of their eligibility as beneficiaries;
- Attach a declaration form, duly endorsed by the competent authority, to their income tax return;
- Include in their income tax return all emoluments received in respect of income from a qualifying contact of employment and all income received from a person related to the payer of such income chargeable to tax in Malta, irrespective of where the duties were performed.

JOSEF MERCIECA

josef.mercieca@bdo.com.mt

NETHERLANDS

DUTCH CRISIS LEVY 2014 CONTRARY TO EUROPEAN CONVENTION OF HUMAN RIGHTS, ACCORDING TO ADVOCATE GENERAL

Crisis levy

In March 2013 and March 2014 a one-off employer's levy of 16% was levied on employee's salaries that in preceding years, respectively 2012 and 2013, exceeded EUR 150,000. Many employers filed objections against the crisis levy. A number of these cases are now being brought before the Dutch Supreme Court as test cases.

Proceedings concerning 2013 and 2014

In this specific test case the Advocate General concluded on 17 November 2015 that the crisis levy for 2014 did have a retroactive effect and furthermore that the government had failed to justify this. He argued that the crisis levy for 2014 in fact defies two fundamental expectations of taxpayers. Firstly, the expectation that the government would adhere to its announcement that the crisis levy would only be levied in 2013 and, secondly, the expectation that past time periods would not be taxed again. This is contrary to the European Convention of Human Rights.

The Advocate General concluded that the scope of the 2014 crisis levy therefore should not go further back than 17 September 2013, as it was only then that the one-off extension of the crisis levy was adequately announced to the public. The 2014 crisis levy of 16% cannot therefore be applied to salaries received before 17 September 2013, to the extent that these exceeded EUR 150,000. The salary received before 17 September 2013 should however be taken into account to determine whether the employee's salary for 2013 exceeds EUR 150,000.

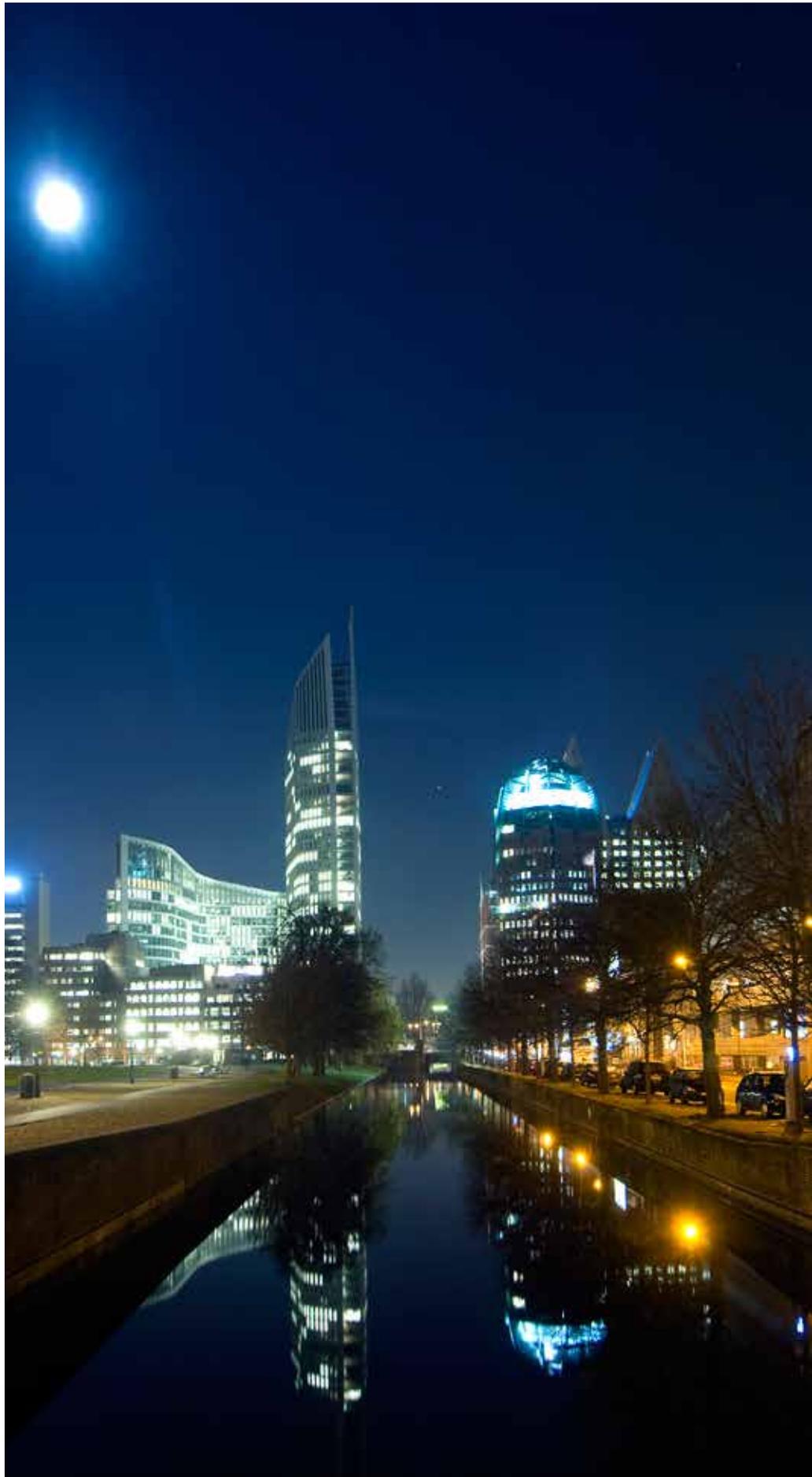
Please note that in proceedings against the crisis levy for 2013, the Advocate General concluded on 18 June 2015 that retroactive effect is also present for 2013 and that this cannot be justified for a number of reasons. The scope of the crisis levy for 2013 therefore should not go further back than 25 May 2012, the date on which, in the opinion of the Advocate General, the crisis levy was adequately announced.

BDO comment

We now have to await the judgment of the Dutch Supreme Court. If the Supreme Court follows the Advocate General's Opinion, in some cases this could lead to a refund of part of the crisis levy for those employers who filed a notice of objection against the crisis levy.

FREDERIEKE DEN HARTOG

frederieke.den.hartog@bdo.nl



SWEDEN

EXCHANGE RATES FOR PAYMENTS MADE IN A FOREIGN CURRENCY

On 7 April 2015, the Swedish Tax Agency published guidance (No. 131 191504-15/111) regarding the correct exchange rate to use in relation to payments (e.g. salary, pensions and other forms of employment income) received in foreign currency. Although a basic rule in Swedish tax law is the so called cash principle (which implies that employment income should be considered taxable the year the income is available for the individual), there was previously no specific ruling for how employment income received in foreign currency should be converted to Swedish kroner.

The published guidance states that when a Swedish tax resident receives a payment related to employment income or pension, the payment should be converted for tax purposes into Swedish kroner by using the official exchange rate on the day the recipient received the payment. If the payment is not converted on the actual payment date the exchange rate set by the Central Bank of Sweden for the payment date should be used. When the payment is a periodical payment that does not vary significantly during the year, the average annual exchange rate published by the Central Bank of Sweden may be used.

BDO comment

Please review the ruling, which clarifies the correct exchange rate to use for payments to be converted to Swedish Kroner for taxation purposes and consider what affect this may have.

ANDREA SZYMANSKI

andrea.szymanski@bdo.se

CHANGES IN SOCIAL SECURITY CONTRIBUTIONS

The Swedish social security system is fully funded by employer contributions. The standard rate for 2015 is 31.42%, but reduced rates apply for certain age groups. Usually the applicable rates are set annually as part of the budget bill process. In 2015 there have also been some in-year changes in the rates applied for young employees, i.e. individuals born in 1989 or later.

To summarise, the amended rates that have been approved by the parliament in this respect are applied as follows:

Employees born 1992 or later

As from August 2015	25.46%
May-July 2015	10.21%
Jan-April 2015	15.49%

Employees born 1990-1991

As from August 2015	25.46%
Jan-July 2015	15.49%

Employees born 1989

As from May 2015	31.42%
Jan-April 2015	15.49%

Other age groups who are subject to special rates, but who not affected by the in-year changes

Employees born 1938-1949	10.21%
Employees born 1937 or earlier	0%

BDO comment

Please review the changes and consider what affect they may have.

JESSICA OTTERSTÅL

jessica.otterstal@bdo.se



GROSS SALARY CALCULATION REQUIREMENTS TO BENEFIT FROM THE RULES FOR EXPERT TAX RELIEF

An individual who moves to Sweden to work for a Swedish company (or a foreign company with a permanent establishment) can under certain circumstances be covered by the so called expert tax regime.

The expert tax regime applies to foreign experts, executives, key personnel, scientists, researchers and others whose skills are difficult to find in Sweden. Furthermore employees with a monthly gross salary including benefits exceeding two basic amounts (SEK 89,000 for 2015) are automatically eligible for expert tax status.

The Supreme Administrative Court has, in a ruling in November 2014, stated how the net salary should be calculated to gross in order to determine whether an employee on a net contract fulfils the salary level requirement to be taxed under the expert tax regime. The ruling implies that the tax relief should be taken into consideration when calculating the gross salary. Hence, the monthly gross salary should be equivalent to the threshold of minimum two price base amounts after the tax relief has been deducted from the gross salary.

The expert tax regime is beneficial since income tax and social security contributions are based on only 75% of the employment income. Furthermore a number of benefits (moving costs, children's schooling, home travel, etc.) are tax exempt.

The tax relief can however only be granted for three years and a condition to be covered by expert tax is that the employee is not expected to stay in Sweden for more than five years. Furthermore the following criteria should be fulfilled:

- The employer must be a Swedish company or a foreign company with a permanent establishment in Sweden
- Individuals who have been a resident in Sweden during any of the five years prior to the start of the assignment in Sweden cannot qualify
- Application must be filed within 3 months from starting work in Sweden
- The salary should preferably be paid from the employer's Swedish bank account.

Ruling by the Supreme Administrative Court

There have been uncertainties in how the gross salary should be calculated for an individual on a net contract in order to reach the threshold of a gross salary of SEK 89,000 per month. The Supreme Administrative Court ruling states that for an employee with a net contract to be able to be taxed in accordance with the Expert Tax Regime, the net salary should be at least as high as the net salary for an employee with a gross contract. Hence, the tax relief

of 25% should be taken into consideration when determining if an employee with a net agreement is entitled to the expert tax relief.

The above implies that the formula Gross salary = Net salary + preliminary tax withholding based on standard tax tables. This formula should be used regardless of whether there is an agreed net salary or gross salary.

The below is an example on how this should work. Person A is a Swedish long term resident with no possibility of fulfilling the requirement for expert tax relief. Person B is a foreign individual working in Sweden with a gross salary of SEK 89,000 per month and person C is a foreign individual working in Sweden who has a net contract.

Person A – no possibility to be taxed in accordance with the expert rules

Monthly gross salary	SEK 89,000
Preliminary tax according to standard tax table	SEK -37,380
Net salary (SEK 89,000 - SEK 37,380)	SEK 51,620

Person B – gross contract and tax relief for foreign experts

Monthly gross salary	SEK 89,000
Tax relief (25%)	SEK -22,250
Base for tax withholding	SEK 66,750
Preliminary tax according to standard tax table	SEK -25,407
Net salary (SEK 89,000 - SEK 25,407)	SEK 63,593

Person C – net contract and tax relief for foreign experts

Monthly gross salary (grossed up)	SEK 89,000
Tax relief (25%)	SEK -22,250
Base for tax withholding	SEK 66,750
Preliminary tax according to standard tax table	SEK -25,407
Net salary (SEK 89,000 - SEK 25,407)	SEK 63,593

The examples above clearly show that for an employee with a gross contract and an employer with a net contract to be tried for expert tax relief on the same grounds, the tax relief must be taken into consideration for the employee with a net contract at the gross up of the net salary. If not, it would be sufficient for the employee with a net contract to have a net salary amounting to SEK 51,620 as person A in the example above in order to reach the threshold for monthly gross salary for expert tax relief.

It should be noted that if the requirement for monthly gross salary is not fulfilled there could be a possibility to be taxed in accordance with the rules for expert tax relief if the employee is a specialist, researcher or part of the board of the company who he/she works for. This applies if there is no possibility to find the same type of expertise/skills in Sweden.

BDO comment

The ruling by the Supreme Administrative Court has clarified the rules for expert tax relief based on salary levels and it is of great importance for future applications for expert tax relief. Given that the final deadline for applying for the relief is three months from the start of the work, if the salary level is not reached in accordance with the above, an application based on special skills should be filed at the start of the work in Sweden in order not to miss the three month deadline.

UNITED KINGDOM

CROSS BORDER PAYROLL SOLUTIONS

In the current economic climate, lots of companies are looking to take advantage of markets in other jurisdictions, many for the first time and often on a small scale to 'test the waters'.

One area that should be considered when budget planning for such an expansion project is cross-border payroll compliance.

Please find below some examples of typical scenarios for UK companies expanding into Europe as well as those having employees seconded to the UK from an overseas group company.

Example 1 – UK based employee who also works in Belgium two days a month and visits Spain regularly for meetings

Multi-jurisdictional working is becoming more common place and there is a need to consider the implications for both the employee and employer in each country. It is also important to remember that more than just the tax and social security positions need to be considered. For example, what are the implications of travel and subsistence costs incurred by the company and/or employee for the business journeys?

Example 2 – German resident employee seconded to the UK for a six month period

Where short term secondments are being arranged, consideration should be given to the concessions available under the short term business visitor agreement (STBVA). The STBVA can have a significant effect on reporting and withholding obligations for employers where the qualifying conditions are met and can save the employee the problem of suffering foreign withholding tax which needs to be reclaimed at a later date.

Example 3 – Employee seconded to the UK for one year from Hungary

Consideration needs to be given to the residence status of the employee and requirement as a result, to declare their earnings via the payroll. Don't forget how this might affect their payroll in the home country. For example, is there a requirement to run shadow payrolls and what steps need to be taken to ensure the social security payments are continued in the home country?

BDO comment

For all of these examples, both home and host country tax and social security withholding and the interaction between the two must be considered. It is key to have a joined up approach.

LUCY ORROW

lucy.j.orrow@bdo.co.uk



UNITED STATES

NEW IRS FORM 1095 – AFFORDABLE CARE ACT

US employers with at least 50 full-time employees generally must offer full-time employees ACA compliant health care coverage or pay a penalty. For 2015 US employers will need to report information to the IRS about the health care coverage offered to their full-time employees using Forms 1094-C and 1095-C. Copies of Form 1095-C must be distributed to full-time employees, that contains information required to be reported as part of their individual income tax submission for the 2015 tax year.

Form 1095-C is the US employer's statement of the availability of health care coverage at the workplace. It must be provided to every employee who is eligible for company-sponsored health insurance, and to every employee who is on a company-sponsored plan.

The Form also helps the IRS administer premium tax credits for any employee who qualified and enrolled for coverage at a Health Insurance Marketplace rather than enrolling in an employer plan.

Forms 1095-C and Form 1094-C must be filed with the IRS annually, no later than February 28 (or March 31 if filed electronically) for the previous calendar year, starting in 2016 for 2015. Also Form 1095-C must be distributed to full-time employees annually, no later than 1 February 2016 for the previous calendar year, starting in 2016 for 2015.

US based assignees should be notified that they will be receiving Form 1095-C in early 2016 and may need information from Form 1095-C to complete their 2015 US income tax filing.

An international assignee may be eligible for exemption from the individual penalty if a resident of a foreign country, or is a non-resident of the United States.

BDO comment

Companies must ensure they are complying with the Affordable Care Act and file the correct forms.



LOSS OF US PASSPORT FOR DELINQUENT CITIZENS PROPOSED

As part of a highway funding bill that the US Congress could approve in December, a tax provision has been included that would give the State Department the ability to revoke or deny passports for people who are behind on their income taxes.

If enacted, the law would go into effect 1 January 2016 and would apply to current debts. Estimates from the Joint Committee on taxation project the move could raise USD 398 million over 10 years.

The measure would affect taxpayers who are "seriously delinquent" on USD 50,000 or more of income taxes owed. It is expected that the new rule would be applied when a taxpayer is subjected to a lien, and the IRS would have the authority to seize assets, including the passport.

US citizens who are under a payment plan or otherwise working to resolve the debt would be excluded as well as those currently challenging their tax debts in court.

BDO comment

Taxpayers must ensure they are compliant and keep up to date with tax payments due. Severe restrictions may be imposed otherwise including seizure of assets and their passport.

JAMES CASSIDY
jcassidy@bdo.com



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 4 December 2015.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Euro (EUR)	1.00000	1.06853
Malaysian Ringgit (MYR)	0.22101	0.23620
Swedish Krona (SEK)	0.10836	0.11590
United States Dollar (USD)	0.93572	1.00000

CONTACT PERSONS

The BDO Expatriate Services Centre of Excellence consists of the following persons:

Andrew Bailey (Chair)	United Kingdom	andrew.bailey@bdo.co.uk
Kumar Krishnasamy	Australia	kumar.krishnasamy@bdo.com.au
Peter Wuyts	Belgium	peter.wuyts@bdo.be
Cleiton de Santos Felipe	Brazil	cleiton.felipe@bdobrazil.com.br
Debra Moses	Canada	dmoses@bdo.ca
Jacques Saint-Jalmes	France	jsaintjalmes@djp-avocats-bdo.fr
Christiane Anger	Germany	christiane.anger@bdo-awt.de
Wolfgang Kloster	Germany	wolfgang.kloster@bdo.de
Jiger Saiya	India	jigersaiya@bdo.in
Robin Schalekamp	Netherlands	robin.schalekamp@bdo.nl
James Hourigan	South Africa	jhourigan@bdo.co.za
Ramon Portela	Spain	ramon.portela@bdo.es
Jessica Otterstål	Sweden	jessica.otterstal@bdo.se
Donna Chamberlain	United States	dchamberlain@bdo.com
Jessica Pancamo	United States	jschuster@bdo.com
Ronni Rizzo	United States	rrizzo@bdo.com

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained herein without obtaining specific professional advice. Please contact the appropriate BDO Member Firm to discuss these matters in the context of your particular circumstances. Neither the BDO network, nor the BDO Member Firms or their partners, employees or agents accept or assume any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it.

BDO is an international network of public accounting, tax and advisory firms, the BDO Member Firms, which perform professional services under the name of BDO. Each BDO Member Firm is a member of BDO International Limited, a UK company limited by guarantee that is the governing entity of the international BDO network. Service provision within the BDO network is coordinated by Brussels Worldwide Services BVBA, a limited liability company incorporated in Belgium with its statutory seat in Zaventem.

Each of BDO International Limited, Brussels Worldwide Services BVBA and the member firms of the BDO network is a separate legal entity and has no liability for another such entity's acts or omissions. Nothing in the arrangements or rules of the BDO network shall constitute or imply an agency relationship or a partnership between BDO International Limited, Brussels Worldwide Services BVBA and/or the member firms of the BDO network.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.