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EXPATRIATE NEWSLETTER

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UNITED KINGDOM
GENDER PAY REPORTING

We highlighted in November 2017 the new gender pay reporting requirements (GPR) and have now produced a detailed guide which can be found at **https://www.bdo.co.uk/en-gb/insights/tax/human-capital/gender-pay-reporting-a-practical-guide**.

In late autumn 2017, the Government Equalities Office started writing to employers whom they had identified as having 250 or more employees in Great Britain and that this was followed up by email correspondence. In the latter, the Government Equalities Office indicated it would publish details of those companies who had already reported, those who had registered but done nothing further and those companies who had not registered and still had yet to publish their gender pay figures by 4 April 2018 (an effective 'name and shame').

GB employers who are covered by the new legislation are required to publicly report a range of gender pay information and six GPR ratios by 4 April 2018. So far around 500 employers have published. We are encouraging clients to ensure they schedule this reporting obligation into their timetable and start preparing for it well in advance of the April deadline.

We previously highlighted that Gender Pay is currently a hot topic both in the UK and globally and part of a wider policy drive for increased reporting and greater transparency around diversity and inclusion. As part of this global drive, Iceland is taking this even further – from 1 January 2018 Iceland has adopted legislation that requires companies with 25 or more employees to obtain government certification of their equal pay policies or face fines. Currently companies in Iceland with 25 or more employees must have an equality plan and the boards of companies with 50 or more employees are required to have a gender pay ratio of at least 60/40.

In the UK, the GPR obligation currently affects employers with 250 employees or more, but with increasing global focus on the issue of gender pay it is entirely possible that this might be extended to much smaller companies in the near future and/or sanctions being imposed for non-compliance, as in Iceland. GPR may well also be the precursor for reporting on age, ethnicity and ratio of CEO to average pay. Recent media attention on the BBC, executive pay and University Vice Chancellors illustrate the increased scrutiny on these issues.

If you need advice or further information, please contact your usual BDO contact for more information, or speak to the core BDO GPR team (David Gardner, Andrea Bunbury and Kyle Newton) or visit our GPR website page.

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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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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.

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AUSTRALIA

RESIDENTIAL PROPERTY VACANCY TAX

As a result of increasing residential property prices and the lack of available rental accommodation, the Australian government has introduced a residential property vacancy tax in the hope of stabilising the property market.

The vacancy tax will apply where a foreign owned residential property is left vacant for a period of 183 days in the year.

The new vacancy law applies to foreign persons who own Australian residential property and includes the following:

- Individuals who are not resident in Australia;
- Companies that are controlled by individuals who are foreign persons; and
- Trusts that are controlled by individuals who are foreign persons.

The new law impacts properties with the following characteristics:

- Residential property with a dwelling constructed on the land;
- Owned by a foreign person;
- Acquired after 7:30 pm on 9 May 2017;
- The acquisition of the property was a notifiable acquisition (with the Foreign Investment Review Board (FIRB)) or would have been but for an exemption e.g. purchase of new dwellings;
- The property was unoccupied for 183 days or more in the (relevant) year.

For the purpose of these rules, a year does not reflect a standard year, e.g. calendar or fiscal year. Rather the year relates to the 12-month period commencing on the first day a foreign owner acquires the right to occupy the dwelling.

A property is considered to be occupied in the following scenarios:

- Where the foreign person or their relative genuinely occupies the dwelling as a residence;
- The dwelling is genuinely occupied as a residence under a lease of 30 days or more; and
- The dwelling is genuinely available for rent, advertised publicly and available at a market rental rate.

Where the dwelling is left vacant for 183 days or more, the tax is calculated based on the fee paid when the acquisition of the land or dwelling was notified to the FIRB. If the dwelling would have received an exemption from FIRB, the tax is calculated based on the market value of the land or dwelling when it was acquired.

In addition to the vacancy tax, foreign owners who acquired Australian residential property after 9 May 2017 are now required to lodge a vacancy tax return with the Australian Taxation Office (ATO) within 30 days of the end of the vacancy year for the relevant property. If requested, the foreign owner may be required to provide records to the ATO proving the property was occupied for more than 183 days during the year. It will be necessary for the foreign owners to retain such records for a period of five years following the disposal of the property.

Foreign owners who fail to lodge vacancy tax returns, or retain and provide the ATO with records in the event of an audit, will be liable for penalties.

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RENTAL PROPERTY RELATED DEDUCTIONS

Concerns that some taxpayers are manipulating the Australian tax system has resulted in the Australian Government legislating to limit certain deductions claimed by residential property investors. These limitations are primarily aimed at individual investors.

Travel expenses

Previously, travel expenditure for inspecting and maintaining a rental property or collecting rent was considered deductible as it was incurred in gaining or producing assessable income. This included costs outlaid for motor vehicle expenses, airfares and accommodation. Even where the travel was for a mixed purpose, e.g. returning to Australia for a holiday and also inspecting residential property, the costs were able to be apportioned to the extent they were incurred in relation to gaining income from the rental property.

Some individual property owners were not appropriately apportioning their travel costs between deductible and non-deductible costs. However, the new legislation now excludes all travel costs of relevant taxpayers from being claimed against rental property income. In addition, these travel expenses are not recognised in the cost base of the property for capital gains tax purposes (CGT).

Essentially, such costs are now to be treated as it they were private in nature and therefore not deductible.

These amendments apply to losses or outgoings incurred on or after 1 July 2017 and will not affect:

- Taxpayers that are carrying on a business;
- Corporate tax entities;
- Superannuation plans (excluding self-managed superannuation funds);
- Public unit trusts;
- Managed investment trusts; and
- Unit trusts or partnerships.

Depreciation deductions

Furthermore, as a means of reducing pressure on housing affordability, the government has limited tax deductions for the decline in value of 'previously used' depreciating assets installed for use in residential rental property.

However, these new measures do not affect the entities as listed above in relation to travel expenses.

As a result certain entities, such as individuals, can only deduct the decline in value of depreciating assets used in gaining or producing assessable income from residential premises if the asset is acquired new for that purpose.

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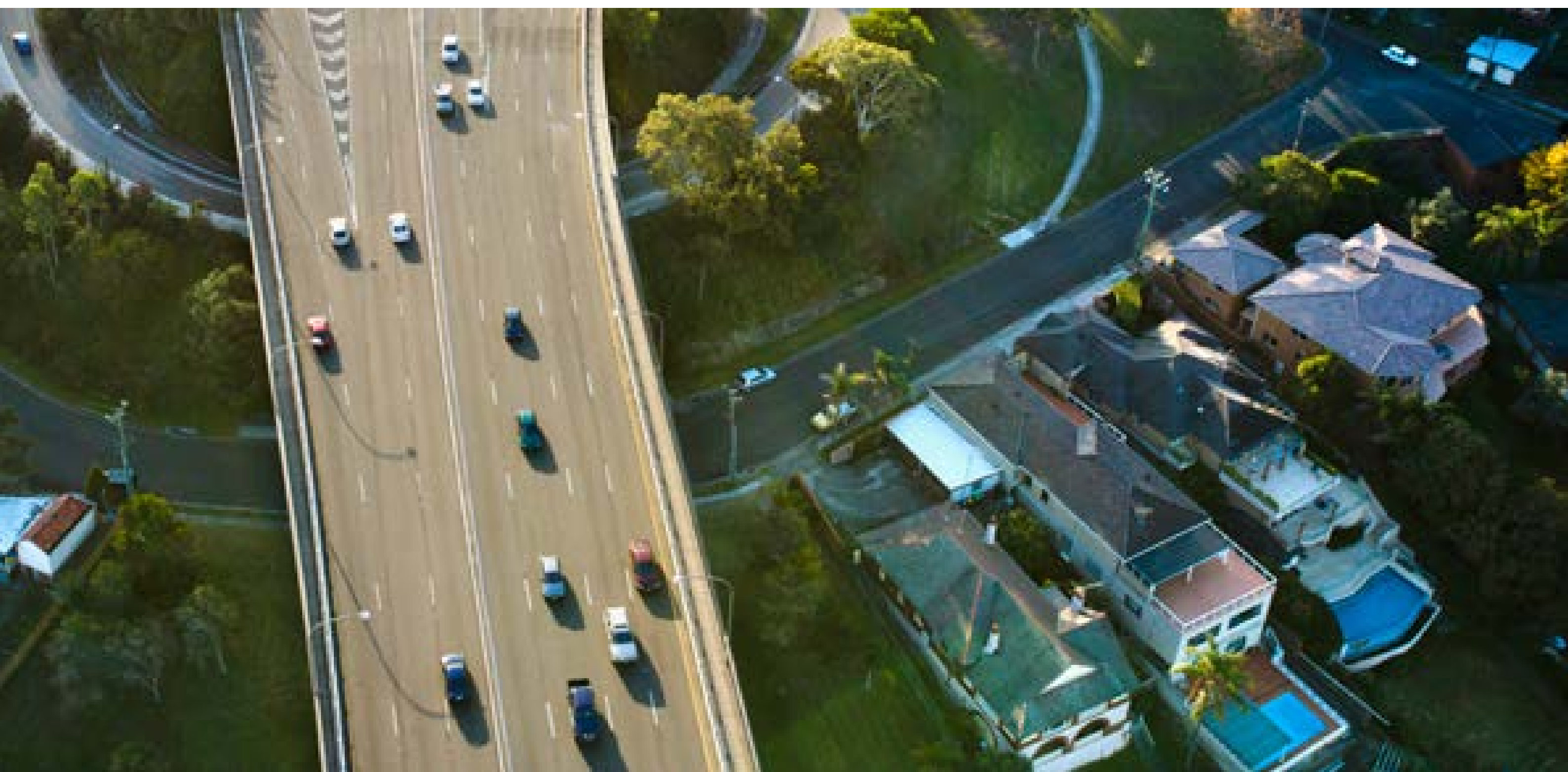

FRANCE

WITHHOLDING TAX SYSTEM

The French parliament has definitively adopted the 2018 Finance Law which confirms that the withholding tax at source will be implemented with effect from 1 January 2019.

The withholding tax system will apply to French source compensation whether paid by French or foreign entities. French employers are responsible for withholding tax on a monthly basis on the salaries they pay.

For compensation paid by non-French employers, monthly or quarterly income tax prepayments will be required.

The withholding tax rate will be based on the average income tax rate that applied for the individual taxpayer in the previous year. However, individual taxpayers will be able to elect to apply a 'neutral rate' that is based only on the compensation paid to them by their employers.

Individual taxpayers will be required to remit to the tax collector monthly pre-payments of income tax with respect to income such as rental income, business profits, etc.

Taxpayers will still be required to file an income tax return, and pay any additional amounts due or seek a refund of any excess tax paid.

'White year mechanism'

Up to now, individual income tax was due with a one-year lag so income tax for 2018 is due in 2019.

From 1 January 2019, the French government will put in place a withholding tax operated by the employer in order to withhold income tax directly on wages. There is an actual risk of double contribution during 2019 which would create a cash flow issue for tax payers.

In order to avoid this issue, French authorities have set up a mechanism of tax credit on ordinary 2018 income so that during 2019 income tax will be due on current wages received during 2019 and exceptional income received during 2018 only. So strictly speaking, French taxpayers will have to pay income tax in both 2018 (on 2017 income) and in 2019 (on 2019 income + exceptional 2018 income) but in an economical view most of the 2018 will not be effectively recovered.

Replacement of the wealth tax by a real estate property tax

Up until 2018, taxpayers with net assets above EUR 1.3 million were liable to a wealth tax through a progressive tax scale based on the value of their net assets.

Every type of asset was included, such as real-estate properties, balance on bank accounts, shares, vehicles etc.

The new tax follows the same mechanism as the previous one but the tax is only assessed on real estate properties (and shares of real estate companies) assets above EUR 1.3 million. Others assets of the taxpayers are no longer subject to this tax.

The tax scale remains the same and is as follows:

Part of the taxable net assets	Rate applicable
Up to EUR 800,000	0%
From EUR 800,001 to EUR 1,300,000	0.5%
From EUR 1,300,001 to EUR 2,570,000	0.7%
From EUR 2,570,001 to EUR 5,000,000	1%
From EUR 5,000,001 to EUR 10,000,000	1.25%
Above EUR 10,000,001	1.5%

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FRENCH FINANCE (PFL) AND SOCIAL SECURITY (PFSS) BILLS FOR 2018

The much awaited 2018 Finance Bill was presented on 27 September 2017 and was discussed before Parliament over the autumn. Most of the proposed measures were already announced over the summer.

Meanwhile the date of implementation of the 'pay as you go' tax collection system announced under François Hollande's presidency, has been delayed from 1 January 2018 to 1 January 2019 (more detail on this included in a separate article within this newsletter).

Logically this should supersede the mandatory payment on account on dividends and interest which applies to certain taxpayers depending on their worldwide taxable income and their family circumstances – see our previous bulletins. The rate for these tax payments on accounts are 36.5% on dividends and 39.5% on interest (including the CSG, CRDS and PS social changes of 15.5%). These would need updating should the CSG increase to 17.2% as it has been announced (see below). The enforcement of the payment on account has been somewhat erratic, with some local tax offices unable to handle the payments correctly, banks applying the levy even for households who do not meet the criteria and difficulties when it comes to claiming any overpayments. Even if the pay as you go system is likely to experience teething problems initially, it will be a welcome change for those currently subjected to the monthly payments on account.

Proposed changes to personal taxation rules

CSG Increase
There is a provision for a CSG increase of 1.7%. In summary, the total social charges (CSG, CRDS and PS) would be:

Reforms concerning social levies
The CSG increase would be compensated by a reduction in the certain social contributions levied on salaries and self-employed earnings.

Pensioners who currently pay 6.6% of CSG are expected to be the most hard-hit by the increase which will rise to 8.3%. They are expected to be compensated by an exemption of occupier's rates (taxe d'habitation) within the planned reform of this tax. It is expected that 80% of households will benefit from this exemption by 2020. The means-tested exemption would be gradual and is expected to follow the following trend:

- 30% in 2018, 65% in 2019 and 100% in 2020. President Macron has also announced that the Government is working on a pension reform.

The CSG increase will also affect taxpayers who receive French rental income. If added to the minimum income tax rate of 20%, non-residents will be faced with a total tax charge of 37.2% on their net rentals. Unlike resident taxpayers, non-resident landlords cannot claim the deductible CSG. This difference in treatment between French residents and non-residents in respect of the same source of income may well give rise to future legal challenges.

RSI: Régime Social des Indépendants
The 'RSI' is the acronym for the Social Security System dedicated to the self-employed. The Government has announced that this regime will eventually disappear in a bid to address ongoing inefficiencies with registration and management as well as numerous errors which have been a source of frustration to the French self-employed workforce. It is also hoped to cancel out cover and benefits inequalities by comparison to those enjoyed by the salaried workforce, and to facilitate any transfers from self-employed to the salaried (or vice versa) social system. The current RSI will be brought under the general regime but with a dedicated sub-organisation to improve self-employed cover and support. This is a major reform and it is expected to take two years to fully implement.

Income sources	CSG %	CRDS %	PS %	Total %	Deductible CSG %
Property and investment income and gains	9.90	0.50	6.80	17.20	6.80
Salaries and unemployment benefits (after a 1.75% capped deduction up to EUR 156,912)	9.20	0.50	0.00	9.70	6.80
Retirement/disability pensions taxable in France	8.30	0.50	0.00	8.80	5.90

Note

1. Acronyms: Contribution Sociale Généralisée (CSG), Contribution au Remboursement de la Dette Sociale (CRDS) and Prélèvement Social (PS)
2. Foreign salaries and professional earnings received by French residents who are covered under the French health system may be subject to a specific social levy.
3. The Prélèvement Social (PS) is set at 4.5% but includes 2.3% of extra charges.
4. Foreign pensions and salaries are not usually liable to the CSG and CRDS if the French resident pensioner is eligible to continued health cover under a reciprocal EU agreement (Form S1 for instance). Nevertheless, it is important to note that foreign investment income (interest, dividends) and gains are not exempt from these 'social' surcharges. Foreign pensions reported in France as commercial annuities are subject to the social charges.

A flat tax rate for investment income
Labelled the 'Flat Tax' the proposed 30% tax on investment income and gains will replace taxation at scale rates plus social charges. The 30% rate will include social surcharges (12.8% + 17.2%). Income arising on Livrets A or specified savings by salaried workers should continue to be exempt. However, the 40% tax-free abatement applicable to certain dividends would be cancelled. Taxpayers may nevertheless opt to have their investment income and gains taxed at the income tax scale rates.

Life assurance policies may be affected if the total savings exceed EUR 150,000. Below that threshold, policyholders should continue to enjoy the 23% rate (7.5% plus 15.5%) on any increase in value and after an eight year holding period. Note that it was proposed to increase this to 10 or 12 years. Insurance companies are voicing their concerns over this proposition because taxpayers may hold several policies. If the onus is on the insurance companies to levy the correct charges this may be impossible in practice without gaining full knowledge of their clients' other policies.

In addition, under the tax at source option withdrawals before four years are taxed at a much higher rate of 50%. By lowering the tax charge to 30% if holdings are in excess of EUR 150,000, policy holders may be tempted to dip into their savings far earlier.

The reform of wealth tax
The 'Impôt de Solidarité sur la Fortune' or ISF is expected to mutate to an 'Impôt sur la Fortune Immobilière' or IFI whereby the taxable base would only include real estate held directly.

Financial assets, even real estate investment vehicles such as fonds euros immobilier, SCPI, SPCI for instance, should be exempt. The budget does not specify if assets held through an entity would remain subject to wealth tax.

The 30% abatement in respect of the principal private residence exemption as well as the deduction of any outstanding mortgage on a taxable property should remain as well as the current barème (rates and bands) see **http://www.bdo.gg/en-gb/services/tax/french-tax/current-french-tax-rates**.

The IFI would come as a relief for the French resident settlors or trust beneficiaries who, since 2012, have had to report the trust's financial assets onto their wealth tax returns. Similarly, if the new tax only concerns real estate which is directly owned, one would expect any such assets held in trust to be exempt. There could also be an increased use of French property holding entities. However, property transfers to entities (companies or trusts) should be carefully considered as these would trigger registration duties as well as immediate and future capital gains tax issues.

Other changes for consideration

Automated Tax Information Exchanges
The effects of the OECD Common Reporting Standard and the Automated Tax Information Exchanges are now trickling into our everyday life. French banks have been sending out letters on the implementation of these OECD measures. With virtually all countries now signed up, French banks and financial establishments are set to share their client's French financial holdings information with the tax authorities in their residence state from 30 September 2017.

The banks' standard letters usually state the information that will be disclosed – typically the account number/reference, balance as at year-end and amount of dividends or interest received. The banks request your tax identification number 'TIN'. For the UK it is the NI number, for Guernsey it is the social security number but for France it is the numéro fiscal de reference as stated on tax assessments. Each country has different 'TIN' so it may be necessary to refer to the OECD website to ensure that the correct information is provided to the relevant financial establishments upon their request. Further information on this subject is available at: **http://www.oecd.org/tax/automatic-exchange/common- reporting-standard/**.

Non-EU territories and social levies paid in 2012-2015
The questions of application of the social charges to French property capital gains and rentals has been dragged back before the European Court of Justice in another attempt to settle the situation of non-EU territories residents who, so far, have had their claims rejected. A decision is expected towards the end of 2018. Meanwhile, fresh claims have been referred before the Montreuil Administrative Court against the levy of social charges on the French source income of non-residents, despite the fact that these charges are now effectively treated as an income tax levy. Sadly, the France-UK double tax treaty expressly disallows a tax credit in the UK in respect of these charges. However, this agreement entered into force before the changes made by the French Government to shift the nature of these charges from social security to income tax.

Reporting obligations for beneficial owners
Article 30 of EU Directive 2015/849 relating to the 'beneficial owners' register has now been integrated into the French legislation by Decree (2017-1094). With effect from 1 August 2017, all companies, groups known as 'groupements d'intérêt économique', associations and foundations registered with the French commerce and company registrars, the greffe, national institute of intellectual property or other legal registers must report the full details of all their beneficial owners. This means holding over 25% of the share capital or voting rights. The report must stipulate the type of control the beneficial owner may exercise over the entity's board and management. The filing deadline is within 15 days from receiving the application.

Existing entities as at 1 August 2017 have until 1 August 2018 to file the necessary paperwork. The document duty for this reporting is EUR 19.76 for new companies and EUR 39.52 for existing ones.

Any changes affecting the details previously submitted will need to reported and updated within 30 days. Any omission, erroneous or incomplete filing can lead to a six-month prison sentence and a EUR 7,500 fine.

Working in France for non-French resident companies or individuals. Are you legal?

This is a reminder that French residents who work from France for a company or an individual with no permanent residence or establishment in France must ensure that they are properly registered in the French social security system in respect of that employment.

There is a dedicated centre known as CNFE, 'Centre National des Firmes Etrangères' to assist with the necessary registration and French contribution payments:
CNFE, 67945 Strasbourg Cedex 9,
Tel: + 33 (0) 810 09 26 33,
email: cnfe.strasbourg@urssaf.fr.

For more information, visit:

www.tfe.urssaf.fr for companies;
www.tpee.urssaf.fr for individuals.

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HONG KONG AND MACAO

IMPACT FROM CHIEF EXECUTIVE'S 2017 POLICY ADDRESS

What will matter to entrepreneurs when the proposals from the Chief Executive's 2017 Policy Address take effect?

The Chief Executive, Carrie Lam Cheng Yuet-ngor, delivered her first policy address on 11 October, in which she announced a number of proposals to address the economic, social and political issues of concern to the Hong Kong community, setting out her vision for maintaining the city's global competitiveness.

Mrs. Lam outlined her proposals for various sectors, covering the introduction of measures to boost economic development, an increase in land and housing supply, and increased spending on research and development (R&D), as well as innovation and technology promotion, measures to improve the livelihoods of elderly people and low-income families, youth development, and many more.

Among all these proposals, there are several that will affect Hong Kong employers and SMEs in 2018 and beyond. The tables below outline details of the relevant proposals.

Table 1

Proposals for increasing employees' benefits and rights

Highlights	Action plan	Target timeframe for formulating the proposals
1. Abolition of the rules that allow employers to offset Severance Payments (SPs) or Long Service Payments (LSPs) against employers' Mandatory Provident Fund (MPF) contributions for employees	The Government will increase its financial commitment to mitigating the impact of the abolition of the offsetting mechanism. The Government will continue discussions with the business and labour sectors with a view to coming up with a proposal that can balance the interests of both employers and employees	To be announced in the coming months
2. Proposal to increase statutory paternity leave benefits	– Initiation of a proposal to increase statutory paternity leave from the current three (3) days to five (5) days – The daily rate for statutory paternity leave would remain unchanged (i.e. the equivalent to four-fifths of the employee's average daily wage)	To be announced by the Labour Department at a later date
3. Proposal to enhance statutory maternity leave benefits	Commencement of a study and work on enhancing the current statutory maternity leave benefits	To be announced by the Labour Department at a later date (it is anticipated that the enhanced maternity leave plan would take around three years to formulate)

Table 2

Proposals for tax relief and mega tax reduction on investment in R&D expenditure

Highlights	Action plan	Target timeframe for formulating the proposals
1. Implementation of the two-tier Profits Tax plan	– Profits Tax rate for the first HKD 2 million of profits to be lowered to 8.25% (for unincorporated businesses: 7%); and – Profits exceeding HKD 2 million will continue to be taxed at the current standard Profits Tax rate at 16.5% (for unincorporated businesses: 15%), if applicable – Please refer to below note on relevant restrictions	To be implemented in fiscal year 2018/19 (subject to further announcements by the Inland Revenue Department)
2. Mega tax reductions for companies that invest in R&D expenditure	– For the first HKD 2 million investment in R&D expenditure, companies can get a 300% tax deduction – For R&D expenditure exceeding HKD 2 million, there will be a 200% tax deduction	To be implemented in fiscal year 2018/19 (subject to further announcements by the Inland Revenue Department)

Note

Only one firm within a group of enterprises can benefit from the lower tax rate as a measure to restrict abuse of such tax relief arrangements.

The proposal to stop allowing employers to offset SPs/LSPs against their MPF contributions for employees has been a long-awaited request from Hong Kong employees since the beginning of the term of office of former Chief Executive, CY Leung.

Before Mr. Leung's term ended in June 2017, he made a proposal to ban the offsetting mechanism by reducing the proportion of an employee's monthly wages as the basis of calculating SPs/LSPs from two-thirds of a month's wages to just half (50%), as compensation for each year of service. He also suggested that such an offsetting arrangement would not apply retrospectively and that a sum of HKD 7.9 million should be reserved to subsidise SME entrepreneurs for their additional expenditure on SPs/LSPs for the 10 years following the ban of the offsetting arrangement. However, as expected, Leung's suggestions met with opposition, since both the labour and business sectors were unhappy with them; employees would receive a significantly lower amount of SPs/LSPs, while employers would incur additional operating costs.

Mr. Leung has now completed his term of office and handed responsibility to Mrs. Lam. If Mrs. Lam decides to help stakeholders to reach a consensus on this controversial issue and eventually abolish the offsetting mechanism as she promised, she may need to start thinking outside the box.

From the employee's perspective, the above proposals to increase benefits and rights are welcome. However, except for the proposal to increase statutory paternity leave to five days, which legislative amendment would make relatively uncomplicated, it is expected that the other two proposals would take longer, with studies and discussions on the complexity and controversy surrounding these topics required before the government can proceed further with such legislative amendments.

SME entrepreneurs stand to benefit from the tax relief and/or tax reduction of investment in R&D expenditure when the above proposals take effect. On the other hand, these tax reliefs and/or tax reduction benefits would be diluted by the increase in employers' operating costs, due to the abolition of the SPs/LSPs offsetting mechanism and an increase in paternity leave and maternity leave benefits for employees.

BDO comment

In view of the impact of the above proposals on various stakeholders, and the need for further studies and discussions between the stakeholders involved before some of these proposals can undergo legislative changes, we will keep readers informed about the latest developments.

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ITALY

TAXATION OF CARRIED INTERESTS AND STOCK OPTIONS FOR CORPORATE EMPLOYEES AND CORPORATE DIRECTORS IN ITALY

In the field of private equity and venture capital, it may happen that directors and employees acquire shares of the company they work for.

Their dual role as shareholders and employees has so far generated significant uncertainty in terms of income tax treatment (i.e. financial income and employment income).

In fact, it was unclear whether the proceeds earned by managers qualified as a performance fee paid as compensation for their job, or as proceeds earned on their stock investments.

While financial income is usually taxed at flat rates (e.g. 26%), employment income is taxed at ordinary PIT rates from 23% to 43% for income above EUR 75,000, regional and municipal PIT rates (approximately 2-3%), and a 3% solidarity tax rate (for income above EUR 300,000). Employment income is also subject to pension and social security contributions payable by the employee and by the employer (about 30%).

These uncertainties have recently been lifted by Art. 60 of Decree Law no. 50/2017 and by the Revenue Office Circular no. 25/E of 16 October 2017, that provides clarifications on the rules in place to prevent carried interests from qualifying as employment income.

The more favourable tax treatment of carried interests

Carried interests are profits from financial instruments that imply stronger property rights than the other investors' rights (e.g. give title to a proportionally greater amount of dividends), subject to certain constraints (e.g. no transfers for a given term, postponed distribution, etc.).

In particular, the Revenue Office has specified that carried interests qualify as financial income (and therefore benefit from the more favourable tax treatment) if the following requirements are met:

- There must be an employment relationship with an investment management company (e.g. asset management and advisory companies) or with an open – ended collective investment undertaking 'SICAV' or 'SICAF' (investment company with fixed capital);
- The employees and directors must hold at least 1% of the aggregate investment made by the collective investment vehicle;
- The extra profit must be postponed, with priority given to the other investors;
- The directors and employees must hold the investment for at least five years.

If a manager's compensation is inadequate, i.e. significantly below market parameters, 'carried interests might be assumed to be a supplement to his ordinary pay in the form of a bonus for his job', in which case carried interests would receive the same tax treatment as stock options.

Difference between carried interests and stock options

A different tax treatment applies to stock options that, unlike carried interests, may exist also outside the financial investment business.

Stock option schemes are characterised by the following essential steps:

- An option right is granted to an employee;
- A given time span elapses between the moment when the option is granted and the moment when it can be exercised (vesting period); and
- The option right is actually exercised.

The proceeds from stock options are considered as employment income according to the umbrella principle whereby all the monies and valuables received by employees in connection with their employment relationship are employment income (Art. 51 of the Italian Income Tax Code).

In the Italian scenario, stock option plans are usually incentive schemes targeted to the company management and intended to have direct impact on business performance. Therefore, managers are offered rights to purchase shares at a given price and within a given term.

The managers' gain lies in the fact that they exercise their purchase rights at share prices lower than in regular listings.

Reporting obligations

The Italian laws provide for mandatory reporting and monitoring, taking into account the rules of double taxation treaties. In fact, the OECD Model establishes that the taxing authority rests with the country of residence of the transferor.

The tax returns must show:

- The employment income arising from the vesting of shares or exercise of options;
- The dividends distributed on the shares received by the employees;
- The gains earned on any subsequent sale of the shares received.

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THE NETHERLANDS

2018 TAX AND SOCIAL SECURITY RATES

Reporting obligations

Premium for the national insurances ('Volksverzekeringen')		
Insurance	**Ceiling**	**Percentage**
AOW (Old Age Insurance)	EUR 33,994	17.90%
Anw (Survivor Dependant Insurance)	EUR 33,994	0.10%
Wlz (Long Medical Care Insurance)	EUR 33,994	9.65%

Premiums for the national insurances are due by the employee and are part of the wage tax rate.

Premium for the employer insurances			
Insurance	**Ceiling**	**Percentage**	**Maximum**
Zvw (Health Insurance)	EUR 54,614	6.90%	EUR 3,768.37
WW (Unemployment Insurance)	EUR 54,614	2.85%	EUR 1,556.50
WW sector Fund (Variable addition to the Unemployment Insurance)*	EUR 54,614	1.37%	EUR 748.21
WAO/WIA (Disability Insurance)	EUR 54,614	6.27%	EUR 3,424.30
Whk (Average)**	EUR 54,614	1.16%	EUR 633.52

Premium for the employee insurances are due by the employer.

* Please note that the actual WW (Unemployment Insurance) Sector Fund premium is determined by the sector qualification which is determined by the Dutch tax authorities.

** Please note that the actual Whk premium is determined by the Dutch tax authorities.

Wage/income tax rates

Wage/income taxes (excluding premiums for the national insurances)				
Bracket	**From**	**To**	**Rate**	**Maximum**
1	EUR 0	EUR 20,142	8.90%	EUR 1,792.64
2	EUR 20,143	EUR 33,994	13.20%	EUR 1,828.33
3	EUR 33,995	EUR 68,507	40.85%	EUR 14,098.15
4	EUR 68,508		51.95%	

Wage/income taxes (including premium for the national insurances)				
Bracket	**From**	**To**	**Rate**	**Maximum**
1	EUR 0	EUR 20,142	36.55%	EUR 7,361.90
2	EUR 20,143	EUR 33,994	40.85%	EUR 5,658.13
3	EUR 33,995	EUR 68,507	40.85%	EUR 14,098.15
4	EUR 68,508		51.95%	

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WHAT TO DO WHEN YOUR EMPLOYEE IN THE NETHERLANDS FALLS ILL

As of 1 July 2017, the Dutch Working Conditions Act was amended (we kindly refer to the news item in Expatriate Newsletter Issue 32, of September 2017). One of the conditions is that an employer needs to conclude a basic contract with an occupational health and welfare provider. Part of this contract is a provision of a company doctor. The employer is responsible for compliance with these conditions.

But what to do when your employee falls ill, short term or even long term? What are the obligations an employer needs to fulfil in The Netherlands?

In most cases, it is obligatory for the employer to keep paying (a part of) the salary of the employee during illness, and therefore it is in the interest of the employer to make sure that their side of the obligations are fulfilled and take the necessary steps to re-integrate the employee into the working process.

Generally speaking, in case of a sick employee the employer is obliged to do his utmost together with the employee to make sure that the employee can start working again as soon as possible (occupational rehabilitation). The obligations of both parties are laid down in statutory law. During the illness of the employee, the obligations of the employer are:

1. To report the employee sick with the occupational health service (in Dutch also known as 'Arbo-dienst') in time and including the necessary information to make it possible for the occupational health service to contact the employee and take measures for re-integration into the work process. A period of four days up to one week to inform the occupational health service is common.
2. Problem analysis which will be drawn up by the occupational health service (no later than the sixth week after the first day of illness) with a description of the nature of the illness of the employee and a report when and how the employee shall commence working again.
3. Appointment of a case manager (most often this can be someone within the occupational health service) who will take care of the process during the period the employee is ill.
4. No later than in the eighth week after the first day of illness, the employer (together with the case manager) will need to draw up an action plan. In case the occupational health service is of the opinion that the employee can (partly) start working again, arrangements will have to be made between employer and employee.
5. The case manager will supervise whether both parties have met the agreed arrangements.
6. Monitoring of the progress will include regular meetings with the case manager and/or company doctor at least once every six weeks.
7. The employee will need to be reported sick with the Dutch Agency for Employee Insurances (in Dutch 'UWV') in the 42nd week of the illness.
8. In case the employee is still sick after 52 weeks, a first year evaluation of the actions that have been taken. It is possible to request for an evaluation done by the UWV.
9. No later than the 53rd week, the start of a so-called 'second re-integration route' if it is clear that the re-integration with the employer is not (fully) possible. This will need to be done sooner in case it is clear before the end of the 52 week period that re-integration with the employer is not possible.
10. A report of the final evaluation will be drawn up together with the employee to determine the status of the occupational rehabilitation.
11. A rehabilitation report, a combination of the problem analysis (Point 2), the action plan (Point 4), the progress monitoring (Point 6) and the first year evaluation (Point 8) will be drawn up in the 20th month of the illness of the employee.
12. With the completed rehabilitation report, after 20 months of illness, the employee can apply for an incapacity benefit with the UWV.

We kindly point out that in the Netherlands, it is not allowed to terminate the (indefinite) employment contract of a sick employee in case the employee fully cooperates with the obligations set out above during a period of two years. The employer will be obliged to pay at least 70% of the salary of the employee during the first 104 weeks of illness. However, it is dependent on the agreements in the employment contract and/or a Collective Labour Agreement, which may stipulate that during the first 52 consecutive weeks of illness, the employee is entitled to 100% of the salary.

Furthermore, in case the employer does not meet the obligations as set out above, as a sanction he UWV can determine that the employer has to pay one extra year of salary to the employee, during which period the employment cannot be terminated. Therefore, we advise to make sure that the UWV is in agreement with the first year evaluation of the actions taken (as mentioned under Point 8 above).

Finally, we would like to point out that the employer is not legally able to determine on his own that the employee is fit to work, even if the illness of the employee seems unreasonable. When the employee reports sick, the employer is not allowed to ask what the nature of the illness is. Only in case of pregnancy, the employee is legally obliged to report illness as a result of pregnancy, as the employer will then be able to reclaim (a part of) the salary of the employee with the UWV.

Should you have any questions on the above, please do not hesitate to contact:

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SWEDEN

NEW EXIT TAX FOR SWEDISH RESIDENTS

The Swedish Tax Agency has put forward a proposed bill to introduce an exit tax for unrealised capital gains for Swedish residents leaving Sweden. The bill has been put forward to the Swedish Finance Ministry and is suggested to be taken into force by 1 January 2020.

The proposal

The proposal from the Swedish Tax Agency includes an introduction of an exit tax for residents who are moving from Sweden. The proposal introduces a tax for unrealised capital assets and a tax as realised once an individual moves from Sweden. There would not be a time limit to the Swedish claim for the exit tax. Capital losses on the assets may be credited against the capital gain that is also taxed as a result of the new law.

The new legislation would only be applicable to individuals that have been resident in Sweden for five of the ten years prior to the move from Sweden. The capital assets that will be included within the new legislation are shares and equities in Swedish partnership companies (Sw. handelsbolag), where the capital assets exceed SEK 100,000.

Individuals moving to a state within the EES or to a state which Sweden has a tax treaty with may claim a respite from the exit tax payment until the assets are sold and the gain is realised. If the asset value has decreased between the exit from Sweden and the sale, this could be taken into account when gain is realised.

Once the new exit tax is introduced, it is suggested that the current Swedish ten-year rule would be abolished. The ten-year rule states that Sweden may tax the sale of shares and equities deriving to the individual's time in Sweden or from a Swedish source, up to ten years after an individual has left Sweden. The domestic ten-year rule may be limited by double tax treaties.

Background, reception and future introduction

The purpose of the new legislation is to protect the Swedish tax base and part of the battle against tax avoidance. The Swedish Tax Agency estimates that the new rule would have affected between 1,000 to 2,000 individuals during previous years and that the future yield is estimated as SEK 1 billion per year.

The proposal has received a positive response from the Swedish Minister of Finance Mrs. Magdalena Andersson.

BDO comment

The proposal from the Swedish Tax Agency is in accordance with the recent Swedish discussions regarding tax avoidance.

The new legislation could be in conflict with the EU principals of free movement for individuals. We will follow the future progress of the proposal with great interest.

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UNITED KINGDOM

SCOTTISH INCOME TAX RATES – TAX RETURN FILING

The introduction of the Scottish income tax rates and rate bands was effective from 2016/17, but in that tax year the rates and rate bands were not varied by the Scottish Government and so are exactly the same as for the rest of the UK. Different rate bands apply for Scottish income tax from 2017/18 onwards.

To be liable for the Scottish tax, you must be a UK resident for tax purposes, so any non-resident individuals that have a correspondence address in Scotland may have been flagged as liable for the Scottish rate by HMRC. This is because all taxpayers with a Scottish address were automatically flagged for it without any consideration made of their residence status. The easiest way to fix this would be for the address at HMRC to be changed to the overseas address but if that is not practical for them, a white space note should be added to the tax return (2017/18 onwards) to make sure that HMRC is aware of the non-resident status.

As many non-residents only have rental and savings income, this might not have a great impact but if there are any self-employed or employed earnings subject to UK tax, HMRC may recalculate that tax when they process the tax return. Although there will be non-resident pages on the tax return, there is no guarantee that HMRC will ignore the Scottish address on their record, especially if they have the record flagged for the Scottish tax.

BDO comment

Taxpayers should ensure they double check their tax liability for 2017/18 and future years where they may be considered a Scottish tax payer. It may take HMRC's systems some time to establish a process for correctly identifying all those liable to the Scottish rate of tax.

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UNITED STATES

US TAX REFORM

As highlighted in previous expatriate newsletters, the Senate Finance Committee and House of Representatives had both been proposing significant changes to the existing US tax landscape.

During December both parties worked in conference to reconcile the two differing proposals and come up with a bill that could pass both houses. The reconciled bill was released on 15 December 2017 and the Senate voted 'yes' to the updated 'Tax Cuts and Jobs Act' on 19 December 2017. The bill was subsequently returned to the House who also voted 'yes' on 20 December 2017.

The Tax Cuts and Jobs Act represents the most significant change to the US tax system in over three decades and was signed into law by President Trump on 22 December 2017. Most of the changes introduced went into effect on 1 January 2018.

Details

The final bill retains seven tax brackets and reduces the rates of tax at all income levels. With effect from 1 January 2018 the new tax brackets are at 10%, 12%, 22%, 24%, 32%, 35%, and 37% compared to the old tax brackets at 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%.

The top 37% tax rate will apply to income over USD 600,000 for a married couple filing a joint return (USD 500,000 for single taxpayers). President Trump had originally pushed for a reduction in the top rate to 35% but neither the original House or Senate bills reduced the rate that far. The reduction to 37% and the small increase in the thresholds at which the top rate is payable is viewed as a compromise which was necessary to meet the requirements of the Budget Reconciliation rules.

There's no change to the current preferential tax rates on qualified dividends and long term capital gains.

As expected, the Tax Cuts and Jobs Act eliminates personal exemptions and many of the itemised deductions which were previously available up until 31 December 2017. These are replaced with an increased standard deduction of USD 24,000 for married couples filing a joint return and USD 12,000 for a single or separate filing taxpayer. A standard deduction of USD 18,000 has been introduced for unmarried taxpayers with at least one qualifying child.

The itemised deductions which have survived are limited. The state income and property tax deduction is still available but with a USD 10,000 cap for both married and single filers. The mortgage interest deduction is limited to interest on debt of USD 750,000 (although this only applies to debt incurred after 15 December 2017). Existing arrangements are grandfathered so the previous mortgage interest limitation on debt of USD 1 million will still apply. However, home equity indebtedness is no longer allowable from 1 January 2018. Under previous law interest was deductible on up to USD 100,000 of home equity indebtedness.

Medical expenses in excess of 7.5% of adjusted gross income are deductible for all taxpayers (not just those aged 65 or older) for the 2017 and 2018 tax year. The threshold then reverts to 10%, as was the case up until 31 December 2017.

Furthermore, the new bill suspends the deduction for all miscellaneous itemised deductions subject to the 2% adjusted gross income floor. This includes tax preparation fees, investment management fees and unreimbursed employee business expenses.

The new bill raises the child tax credit to USD 2,000, with the first USD 1,400 refundable, and creates a non-refundable USD 500 credit for non-child dependents. The child credit begins to phase-out when adjusted gross income exceeds USD 400,000 for married couples filing jointly (USD 200,000 for single filers). Under previous law, phase-out began at USD 110,000 for married couples filing jointly (USD 75,000 for single filers).

There is no deduction for any alimony or separation maintenance payments made in respect of divorce or separation agreements entered into after 31 December 2018 – implemented a year later than most changes under the new law. Consequently, there is no requirement to include any such income as taxable income either. Existing alimony or separate maintenance agreements are grandfathered, as are modifications to existing agreements.

Children subject to 'Kiddie tax' will now have two different tax regimes for their earned and unearned income. Children will no longer be subject to their parents' tax rate.

The moving expense deduction has been repealed from 1 January 2018 (the exception being US military who move pursuant to a military order). This means that moving costs including storage expenses, final move travel expenses and household goods moving expenses previously excluded from income will now be considered taxable from 1 January 2018.

Some of the other reforms included in, or unexpectedly omitted from, the final bill are as follows:

- The amendments to the rules on the sale of a principal residence were omitted so the current USD 500,000 exclusion for joint filers (USD 250,000 for single filers) will remain;
- The charitable contributions deduction remains intact – subject to three modifications relating to cash contributions to public charities, the denial of any deduction for payments made in exchange for athletic seating rights and the removal of substantial exception for certain contributions reported by a charitable organization;
- The Alternative Minimum Tax (AMT) will not be repealed, but the thresholds at which taxpayers are impacted by AMT will be greatly increased (and the loss of the state tax deduction will reduce its impact in any case);
- 'Carried interest' returns will no longer qualify for long term capital gains treatment unless the underlying investments are held for three years or more;
- The gift, estate and generation-skipping tax exemption will be significantly increased to USD 11 million. However, these taxes will not be repealed in future as was proposed in the original House bill;
- Like the original House and Senate bills, the final bill retains the 3.8% Net Investment Income Tax;
- The 'individual mandate' introduced as part of President Obama's healthcare reform, i.e. the requirement for all individuals to buy health insurance or face a penalty, is repealed from 2019.

Most of the individual tax reforms contained within the final bill will expire after 31 December 2025.

Some other highlights of the Tax Cuts and Jobs Act include the expected significant reduction to the corporate tax rate and sweeping changes to the way that multinational corporations are taxed. The headline rate of corporate tax has been cut from 35% to 21% and, unlike most of the other reforms in the bill, this change is permanent.

In order to switch to a 'territorial system' of taxation, the final bill provides a complete exemption for dividends paid from foreign corporations to US corporate shareholders that own ten percent or more of the foreign subsidiary. In addition, the bill includes a one-off tax on offshore profits that have not previously been repatriated to the US. The rate of tax is 15.5% on liquid assets such as cash and 8% on illiquid assets such as real estate.

The bill also includes a tax break for 'flow-through' businesses (sole traders, partnerships, S-corps and LLCs) in the form of a 20% deduction for 'qualified business income', i.e. participants in pass through businesses can deduct 20% of their income from the business for tax purposes. However, the deduction is limited for taxpayers with income from 'specified services' (law, financial services, accounting or other trades or businesses where the reputation or skills of the owner is the primary asset of the business). The deduction is also limited to 50% of the business W-2 wages, a measure intended to target the deduction towards businesses that create jobs. Both of the limitations only apply to taxpayers with income over the 'threshold amount': USD 315,000 for joint filers and USD 157,500 for single or separate filers.

The final bill also introduces legislation to tax capital gains on the sale of a US partnership interest in the hands of a non-US person.

For most Americans living in relatively high tax jurisdictions (e.g. most Western European countries) the reduction in the top tax rate to 37% will have little impact, other than perhaps to increase their excess foreign tax credits. However, those Americans abroad who receive business income in the US and pay US tax on a 'flow-through' basis may see a significant reduction in their US tax bill, if they meet the criteria to claim the 20% deduction. Whether this results in a reduction in their global tax liability will depend on the position in their country of residence.

For example, Americans in the UK who are claiming the 'remittance basis' of taxation may see a reduction in their US tax liability, particularly if they are investors in 'flow through' businesses in the US. However, the final bill does not reduce the tax rates on long term gains or qualified dividends so most investment returns will remain subject to the same rates.

The increase in the gift and estate tax exemption will further widen the gap between the US exemption and the UK inheritance tax exemption (currently GBP 325,000 per person). US citizens in the UK who are not yet deemed UK domiciled may decide to settle non-UK assets into trust in advance of becoming deemed UK domiciled, and an increased US gift tax exemption gives them the opportunity to settle more than they can currently without incurring a gift tax charge.

The retention of the current rules for the sale of a principal residence will be seen as good news by taxpayers with homes outside the US which have appreciated in value. However, in most cases the USD 500,000 exemption (for joint filers) will still not match the generous rules in the UK (and many other European countries) where gains on sale of a principal residence are completely exempt from tax.

Finally, non-US citizens with investments in US 'pass through' businesses may now find that they have a US tax liability to pay when they sell their investment as a result of changes made in the Tax Cuts and Jobs Act.

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US PAYROLL COMPLIANCE FOR A GLOBALLY MOBILE WORKFORCE

To be competitive in the employment market today, in almost any industry, it is often necessary to provide your employees with certain perks such as company cars or individual income tax preparation services. In the global mobility world, it is a must. However, such expenses paid on an employee's behalf must be reported in US payroll even if there's no cash disbursement to the employee. These benefits-in-kind or items of imputed income are often challenging to comply with and can be further complicated when employees work internationally and have elements of compensation paid on their behalf outside of the normal realm of wages, bonuses and equity.

When US citizens or green card holders work internationally, companies often pay for, and this list is not meant to be exhaustive, housing in the host location, children's schooling, home leave travel and individual foreign income taxes in the host location. These elements of compensation (i.e. anything paid to the individual and/or on behalf of the individual whether in cash or as benefits-in-kind) must be captured in US payroll. For clients that use an RMC or who are diligent in capturing all taxable expenses paid by a foreign entity, the data gathering process can be very smooth. For smaller clients, or clients with smaller programs, data gathering can be more challenging as it often involves communicating with foreign entities who aren't required to track this kind of information. In China, for example, housing paid by an employer directly to the landlord is tax-free for income tax purposes in China, but it's taxable for US income tax purposes for US citizens and green card holders and must be reported on Form W-2 (Wage and Tax Statement). In this example the US employer needs this information for inclusion on the employee's Form W-2, but individuals working in the payroll group of the Chinese entity may not even consider why they should accumulate this information.

When companies have individuals on international assignments, Form W-2 wages can often times appear inflated since they include not only the stay at home base salary, bonus and equity but also all the allowances paid to or on behalf of the individual. From a US income tax perspective, whilst this income can often be offset through the utilisation of the Foreign Earned Income Exclusion (FEIE), Foreign Tax Credits (FTCs) and/or a combination of the FEIE and FTCs, Social Security and Medicare taxes are still due on all elements of compensation including those allowances. It is critical that all elements of compensation be included in and processed through payroll. Employers have a responsibility to withhold and remit the appropriate taxes, otherwise, they could be exposed to penalties and interest.

Tax jurisdictions trying to raise revenue have increased scrutiny in the area of a globally mobile workforce. Border agents are becoming more empowered to ask specific questions regarding the purpose of entry into their country. If an individual says business is the reason for their visit and upon further inquiry it's determined that there's no tax remittance mechanism in place, the individual can be denied entry into the country.

For foreign nationals coming into the US the challenges are different. Many often remain on their home country payroll. Many companies make the mistake of thinking that if an employee spends fewer than 183 days in a country with which their county is party to an income tax treaty that there is no income tax filing requirement in the host location. This can be a dangerous and potentially costly assumption since it assumes a treaty exists in the first place, and often times it does not consider the other requirements that the costs not be paid by an employer in the host location and borne by a permanent establishment in the host location. More often we have seen questions have been raised if there should be a recharge to the host location if the services the employee provides benefits that entity irrespective of whether or not there was a recharge or transfer pricing agreement in place.

Whether or not an income tax treaty exists and all the requirements are satisfied, if an individual earns more than USD 600 for services performed in the US, a Form W-2 must be issued. For business travellers this is often overlooked. Withholding requirements and income tax filing requirements may be impacted by the application of an income tax treaty, but nevertheless a reporting requirement may still exist. For longer term foreign national employees who are sent to the US but remain on their home country payroll, the US entity should run what's called a shadow payroll, which mirrors all items of compensation or benefits that are paid out of the foreign country and ensures the foreign national's Form W-2 is properly reported.

It is also important to remember in all situations, that totalisation agreements should be considered to ensure that the appropriate social taxes are being paid and remitted in the appropriate jurisdiction.

BDO comment

US payroll compliance for a globally mobile workforce isn't easy but with the appropriate focus and support companies can navigate the income and social tax obligations that they as employers face as well as the reporting obligations they have to their employees.

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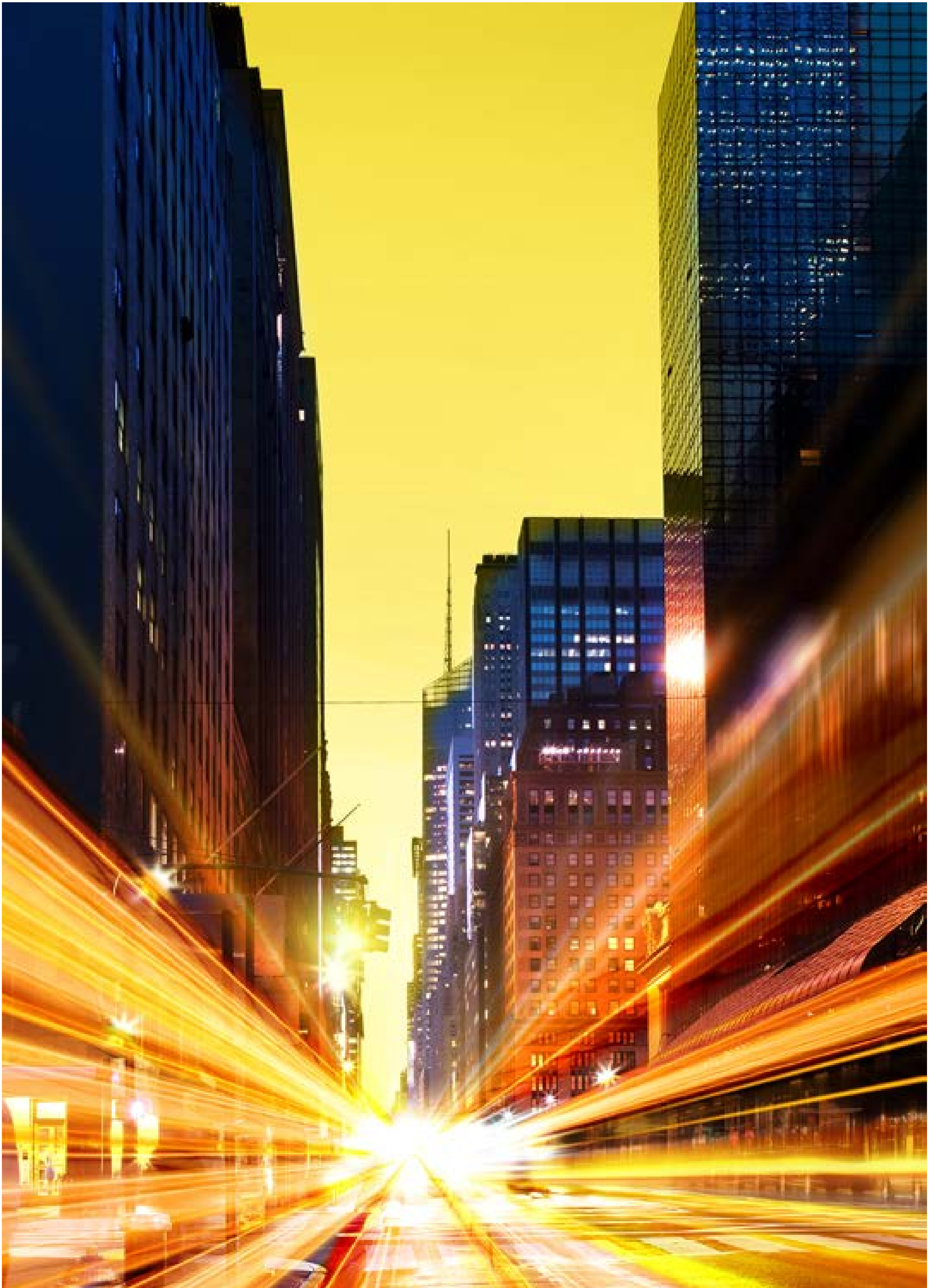

CURRENCY COMPARISON TABLE

The table below shows comparative exchange rates against the euro and the US dollar for the currencies mentioned in this issue, as at 17 January 2018.

Currency unit	Value in euros (EUR)	Value in US dollars (USD)
Euro (EUR)	1.00000	1.22470
Hong Kong Dollar (HKD)	0.10435	0.12781
Swedish Krona (SEK)	0.10164	0.12448
United States Dollar (USD)	0.81644	1.00000

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