GLOBAL MOBILITY ALERT

November 2017

About Mazars

Mazars is an international, integrated and independent organisation. Globally we specialise in audit, accountancy, tax, legal and advisory services. We rely on the skills of more than 18,000 professionals in the 79 countries that make up our integrated partnership.

Mazars Global Mobility Services have a long history. For many years we have been building a worldwide group of international advisors, specialising in advising employers on the international mobility of their employees. Our services include global tax compliance and optimisation, international payroll services, social security administration, shares schemes planning, immigration services etc., including global mobility policy advice and the management of global mobility.

INTRODUCTION

We gladly present you a new issue of our Global Mobility Alert.

Companies are looking to optimize employee benefits for their expat population, preferably at no tax cost. Governments are looking to boost local economy by attracting specialists and key personnel, preferably leading to additional tax revenue.

Both governments and companies are trying to find a balance between cost and revenue. This is not too simple. As an example, Ireland and Sweden introduce new share based tax benefits, while China needs to control the use of (tax facilitated) fringe benefits. More about this you may read in this newsletter.

In addition, we describe the potential benefits of expat tracking software, highlighting useful features to keeping your expat population in sight.

As ever we welcome all feedback, ideas and questions.

Kind regards,

Alexander Rasink
Head of Mazars Global Mobility Services

CHINA SCRUTINISES EXPATRIATE TAX COMPLIANCE

Local Tax Authorities in China are stepping up efforts to enforce individual income tax compliance, particularly towards foreign expatriates working in China. Recently, the Beijing Local Tax Authority launched an investigation into the individual income tax of expatriates working for the Chinese subsidiary of a Fortune 500 company. The investigation concluded that the quantum of fringe benefits provided far exceeded that of expatriates of comparable entities in the industry, resulting in back taxes and penalties of well over RMB 28 million (USD 4.2m) imposed on the Chinese subsidiary.

Under current Chinese individual income tax regulations, certain fringe benefits received by expatriates are exempt from individual income tax. These benefits as prescribed by Caishuizi (1994) 20 and Guoshuifa (1997) 54 and include allowances towards housing, travel, relocation, home leave and language training.

Generally, as these fringe benefits form part of the compensation to the employee, the costs incurred are often tax deductible to the employer as they are expenses incurred to earn assessable profits. However, during the investigation on the Chinese subsidiary of the Fortune 500 company, the Beijing Local Tax Authority noticed that the amount of fringe benefits provided to the expatriates had exceeded 50% of their regular compensation. In comparison to an average 20% of fringe benefits offered by other foreign invested enterprises in Beijing, it was deemed that the fringe benefits received by the expatriates were unreasonable.

In particular, it was found that in addition to rental reimbursements, utilities, property maintenance charges as well as cleaning expenses were also included as part of the tax exempt housing allowance. It is the view of the tax authority that housing allowance should only include direct rental expenses.

Also, it was found that the children of expatriates were educated overseas, whereas the child education allowance is meant for education within China. Even for education that incurred within China, expenses such as meals and transportation should be excluded as a non-taxable child education allowance.

The tax authority also found expenses such as piano training expenses, did not qualify as language training and were also excluded.

The Chinese subsidiary also paid the transport expenses incurred by expatriate family members. As noted in Guoshuihan (2001) 336, only transport expenses incurred by the expatriate can be exempt from individual income tax.

Travel allowance earned for travel within or outside China is exempt from individual income tax provided that the amount is reasonable and receipts of the relevant transport and accommodation expenses or travel schedules can be submitted to the tax authorities. However, no specific criteria were set by the Chinese subsidiary to justify the reasonableness of the amount of allowance being claimed. While this often depends on the interpretation of the relevant tax authorities, the Beijing Local Tax Authority has taken a stringent approach in this case, and included such expenses as taxable income.

Due to the above decisions, the Chinese subsidiary was assessed additional individual income tax payable on behalf of expatriates of over RMB 16 million, and, as no proper withholding tax had been withheld, a penalty of RMB 12 million was also imposed.

Fringe benefits continue to be an effective means to provide tax free compensation to expatriates. Nevertheless, the employer enterprise would need to provide proper documentation, and the fringe benefit has to clearly fit within Local Tax Authority interpretation in order to be exempt from individual income tax.
With Chinese Tax Authorities taking a more proactive approach to individual income tax affairs of expatriates, enterprises which attract foreign expatriates by offering substantial fringe benefits should from time to time review the details and amount of the fringe benefits provided and seek professional advice to remain compliant and avoid hefty penalties and fines.

How can Mazars help?

Please do not hesitate to contact your local advisor or Alexandra Hui (Alexandra.hui@mazars.hk, +852 29095604), Joey Zhou (joey.zhou@mazars.cn, +86 1084298078) or Peter Law (peter.law@mazars.cn, +862161681088 verify or discuss in further detail which possibilities would be preferable in your specific case.

NEW IRISH SCHEME TO INCENTIVISE KEY EMPLOYEES

In October 2017 the Irish Minister of Finance announced in his 2018 speech the introduction of a new tax-advantaged share option scheme which has been introduced to support small and medium-sized enterprises (SMEs) with growth potential in the recruitment and retention of “key” employees. Called the Key Employee Engagement Programme (KEEP), the scheme will apply to employees whether hired locally or abroad.

Share-based remuneration can play an important role in rewarding key employees at all stages of a business’s development and it can significantly reduce fixed labour costs and free up business cash-flow. The tax-advantaged scheme will help align employee interests with that of the SME and it should assist ambitious SMEs to grow their presence and increase revenues in both domestic and international markets.

Through the KEEP incentive, gains arising to a key employee on the exercise of qualifying share options will be exempt from income tax, USC and employee PRSI contributions. This is a key advantage of KEEP as it means that if the company share price has increased in value between the time of grant and exercise of the qualifying share option the uplift in value is received tax-free by the key employee.

Under current rules, the value of the gain is subject to income tax, USC and employee PRSI contributions, with a potential combined liability of 52%. Whereas under KEEP, the employee will only pay Capital Gains Tax at the current rate of 33% on the ultimate sale of the company shares.

The value of shares acquired by key employees through the KEEP incentive will also be exempt from employer PRSI contributions, in accordance with the current regime applying to share-based reward.

In terms of next steps, the KEEP incentive is subject to EU State Aid approval procedures, which are ongoing and expected to conclude shortly. Assuming that approval is granted, it is expected the incentive will be available for qualifying share options granted between 1 January 2018 and 31 December 2023.

Encouragingly, in July 2017, the European Commission approved under EU State Aid rules a Swedish share option incentive scheme, the broad principles of which are similar to the proposed KEEP incentive.

How can Mazars help?
If you would like to discuss the new KEEP scheme further, please contact your local advisor or Ken Killoran (Tax Director) (kkilloran@mazars.ie, +353 1 449 4451).

LOWER TAX ON STOCK OPTIONS FOR SWEDISH START-UPS

Following pressure from Sweden’s business community, the Swedish Government is proposing to lower the tax on certain stock options for companies that have been in business for less than 10 years.

At present, stock options are currently considered a taxable benefit resulting in them being taxed as employment income on the difference between vesting price and market value of the shares. The taxation amounts to as high as 58 % for the employee and social contributions for the company.

To make it easier for recently founded companies to attract employees, the government plans to lower the tax applying to stock options. If the issuing company meets certain criteria and the employee receives a market level salary, stock options will no longer be considered a taxable benefit.

In addition, the employee will not be taxed for the stock option until the day the stock is being sold and the company will not be liable for social contributions on the stock option.

To qualify for the lower tax regime, a company must not have been in business for more than 10 years when issuing the stock option. The rules apply to smaller companies and some businesses are excluded. The company may not have financial difficulties.

The proposal has been welcomed as a first step in adjusting the taxation of employee incentives, which Swedish companies have been pushing for.

Put forward in autumn, the Swedish parliament is expected to pass the bill at the end of November. The new rules will then enter into force as of January, 1st 2018

How can Mazars help?

If you would like advice or assistance on whether your company qualifies and how it will impact employee and employer tax going forward, then please contact your local advisor or Jenny Stenesjö Wöhrman (Jenny.Stenesjo@mazars.se, + +46 8 5620 38 08).

UK BUDGET INDICATES CHANGES TO IMMIGRATION RULES

In addition to the announcement on 15th November that the quota for the Tier 1 Exceptional Talent route (a scheme for future leaders in the digital technology, science, arts and creative sectors) will double from 1000 – 2000 visas a year, the budget also commits to other changes within the immigration rules to encourage the “best and brightest” to the UK.

In particular, the changes relate to scientists and researchers, tying in with the UK government’s ambitions to support on innovation and R&D. Going forward, world-leading scientists and researchers endorsed under the Tier 1 (Exceptional Talent) route will be able to apply for settlement after three years in the UK, compared to the current 5 years.

It has also been announced that other changes for this sector will include reducing the red tape involved for UK companies wishing to hire international researchers and members of established research teams, by relaxing the labour market test and allowing the UK’s research councils and other select organisations to sponsor researchers.

The budget also announces that other changes will make it quicker for highly-skilled students to apply to work in the UK after finishing their degrees here. Currently, there are already exceptions in place which allow foreign graduates of UK universities to switch to Tier 2 work visas here in the UK upon securing employment without the need for the employer to run a Resident Labour market test and so it will be interesting to see how the changes improve this transition further.

How can Mazars help?

As yet there has been no further announcement from the Home Office as to the practical details of these changes your local advisor or Alison Hutton (alison.hutton, +44 20 7063 4682) will be able to advise further in due course.

USING TECHNOLOGY TO MANAGE YOUR GLOBAL WORKFORCE IN REAL-TIME

Constantly changing labour laws, tax and social security requirements demand a comprehensive and efficient method of managing a company’s global workforce in order to satisfy regulators. Expat Tracker, a web-based global assignment management and reporting tool can help clients manage their global workforce and international assignment programs quickly and cost efficiently.

The benefits of using this technology can not only reduce the administrative workload for all stakeholders of assignments, but streamline the information exchange between the client and service provider.

A further benefit of such technology is the ability to implement configurable workflows in an easier manner that allows all of the participants to manage data and reports more efficiently.

Set up is quick and simple. The screens and database can be easily configured to accommodate specific client data requirements. Different access rights can be set up for employees, Global Mobility Managers and the HR team members as well as for advisors from different countries. Using the tracker, companies can be created more easily in the system. Existing spreadsheets can be automatically imported and data can in turn, be exported from the Tracker directly into Microsoft Excel Work Spreadsheets.

Developed over a number of years, the key features of Expat Tracker have been created with global mobility firmly in mind. The system has the ability to add assignments together easily and documents can be stored, accessed and tracked. Users can set up an email alert and reminder functions, as well as generate to-do-lists.

A further key feature is the ability of users to customize their own dashboards enabling them to create dynamic and up-to-date reports using real-time key performance indicators.

A choice of formats including spreadsheet, graphs and dynamic data views also make light work of producing reports.

'On the spot' queries can be answered instantly using Expat Tracker's extensive drilldown and effective filtering functions. One click and the user can email a report from the system, which can also be attached to automatic email notifications and alerts. Extended Business Travellers as well as expats also have access to a travel diary that provides employers with an effective tool for keeping track of their employees' movements, as well as generating regular reports that satisfy the regulatory authorities.

As part of our coordination concept is to support our clients with their global workforce and to manage immigration, labor law, tax and social security aspects of our Global Mobility Services. Mazars will provide online training and ongoing support during the entire assignment process.

How can Mazars help?

For more information about how Expat Tracker can help you or for any aspect of our Global Mobility Service, please contact your local advisor or Tobias Mackenrodt (tobias.mackenrodt@mazars.de, +49 69967651215).

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