GLOBAL MOBILITY ALERT

May 2018

About Mazars

Mazars is an international, integrated and independent organisation specialising in audit, accountancy, tax and legal services. As of 1 January 2018, Mazars operates throughout the 86 countries and territories that make up its integrated partnership. Mazars draws upon the expertise of 20,000 women and men led by 980 partners working from 300 offices worldwide. We assist clients of all sizes, from SMEs to mid-caps and global players as well as start-ups and public organisations, at every stage of their development. that make up our integrated partnership.

Mazars Global Mobility Services consists of 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, and immigration services.

INTRODUCTION

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

Tracking employees is becoming increasingly important for companies operating internationally. Local tax authorities expect employers to be aware of their employee's travel pattern, in order to ensure correct filing, withholding and payment of tax and social security. Also individuals should be aware that a claim for a double tax exemption in their personal income tax return may be rejected if not supported by proofed travel data.

The numbers of days spent in a country have a broad and varying impact in many countries. Please read the article on Foreign Employment Exemption in South Africa, the residency impact on joint filing in Greece and the conditions for qualifying for the expat regime in Slovenia. And it does not stop at tax. Travel may also impact business decisions, travel related compensations and may expose to local labor law and immigration regulations. An example is the reporting requirement of posted workers within Europe, to be found in this newsletter.

Last but not least we give you a peak into the 'battle' between Belgium and the Netherlands on taxing Dutch pensions.

Kind regards,
Alexander Rasink
Head of Mazars Global Mobility Services

TAXATION OF PENSION INCOME: IS MODIFICATION OF THE BELGIUM/NETHERLANDS DOUBLE TAX TREATY THE NEXT STEP?

The withdrawal of the Dutch wage tax exemption on company pension income exceeding 25,000 EUR by the Dutch authorities at the end of 2017 has seen Belgian residents facing uncertainty, as well as potential double taxation of their pension income.

The situation came about due to the Belgian-Dutch double tax treaty (the "Treaty), which states that second pillar - company - pension income received by a Belgian resident is in principle taxable in Belgium. Such pensions will also be taxed in the Netherlands if the pension income exceeds a sum of 25.000 EUR gross per annum and, if at the same time, the pension premium payments were exempt for tax purposes in the Netherlands and Dutch pensions were not taxed at the Belgian progressive tax rates and/or if less of the pension income was subject to tax in Belgium.

In reality, this meant that in most situations pensions would not be taxable in the Netherlands and, based on Belgian individual lawsuits, nor would a lot of Dutch pensions be taxed in Belgium. Consequently, in some situations double non-taxation occurred. As a result, the Dutch authorities with-drew the Dutch wage tax exemption on company pension income exceeding 25,000 EUR. However, it meant Belgian residents faced double taxation of their pension income as from January 1 2018.

On March 5 2018 the Belgian and the Dutch tax authorities signed an agreement to avoid double taxation. Where the Belgian tax authorities can demonstrate to the Dutch authorities that the pension income was subject to Belgian progressive tax rates, the Dutch authorities will grant an exemption of Dutch wage tax. In other situations, the Dutch wage tax remains applicable.

Taxpayers will not, in principle, have to take any action themselves as exchange of relevant information will correct the wage tax automatically, although there may be a delay between exchange of information and correction of +/- 1.5 - 2 years.

Yet, despite the signed agreement of March 5, there will be situations when pension income is part-ly taxed in Belgium at progressive tax rates and partly taxed separately at 30% and no Dutch wage tax will be applied. It is unlikely, therefore, that the Belgian and the Dutch tax authorities will accept these situations anymore and double taxation will potentially occur.

With such anomalies still existing, a modification of the Treaty to give exclusive taxation right to the source state, i.e. the Netherlands, could be a solution.

How can Mazars help

If you could like to know how this may affect you please contact your local advisor or:

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SLOVENIAN TAX REFORM INTRODUCES A SPECIAL TAX BASE FOR EXPATS

The tax reform adopted in December and applicable from 1 January 2018 has introduced a special tax base for expatriates, including changes to the reimbursement of work-related expenses. An amount of 20% of the salary received by the expatriate, but not more than a total of EUR 1,000 per month, is now tax-exempt.

The special tax base applies to those coming to work in Slovenia (inbound) as well as those sent to work abroad from Slovenia (outbound). In order to claim the special tax base a secondment has to last for a continuous period of more than 30 days and has to be more than 200 km away from the usual place of work, taking into consideration the shortest route.

In addition, a worker must not have been a tax resident of the country of secondment during the last five years prior to the commencement of the first secondment. Plus in the employment con-tract, a salary equal to at least 1.5 times the last known average annual salary of employees in Slovenia is guaranteed for the work during the secondment.

In terms of reimbursement of work-related expenses, from 1 January 2018 certain conditions have to be met. For example, individual health insurance premiums are tax exempt so long as cover applies in all countries of the world and is limited to the performance of official duties on the temporary secondment abroad. Plus, the reimbursement of insurance costs has to be available to all employees who are temporarily sent abroad and the insurance covers only emergency assistance, patient transport and other related services, i.e. insurance with the lowest risk level or minimum coverage level.

Reimbursement for the daily cost of meals is tax-exempt for each working day during the secondment lasting for a continuous period of up to 30 days, or up to 90 days for workers engaged in international transportation, and up to an amount determined by the Government. For secondments exceeding 30 days, or 90 day for workers in international transportation, the meal allowance amount determined by the Government will be increased by 80%.

Transport costs reimbursed from the place of residence to the place of secondment at the beginning of the secondment, as well as return transport costs at the end of the secondment, will be tax exempt. Equally, reimbursement of accommodation costs during the secondment is tax-exempt if the secondment lasts up to a maximum of 90 days, with the additional condition that an employer does not pay the employee further tax-exempt remuneration at the same time.

With regard to the enforcement of the special tax base, the Personal Income Tax Act (ZDoh-2) prescribes certain additional restrictions and conditions that have to be verified and met in each specific case, which means further expert advice may be necessary.

How can Mazars help

If you would like to know more about taxation of personal income tax of expatriates, please contact your local advisor, or

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GREEK COUPLES CAN NOW BE ASSESSED SEPARATELY FOR TAX

Following a decision by the Supreme Court, marriage and cohabitation agreements are no longer the main basis for how spouses and partners are assessed for tax purposes in Greece.

Until December 2017 a married couple had to declare the same tax residency. More specifically, a person's marital status was one of the most significant conditions taken into consideration for an individual to be classified as resident for tax purposes by the Greek tax authorities.

However, in Circular 1201/2017 which was published in December 2017, the Greek Ministry incorporated into its guidelines decisions 1445/2016 and 1215/2017 of the Supreme Court, which decided that a married couple can be examined separately under certain conditions.

As a result, the Greek Ministry's view on common tax residency is that both marriage and cohabitation agreements are no longer obstacles to achieving separate tax residency status between spouses and partners respectively.

According to the Greek Ministry of Finance's Circular 1201/2017, when one of the spouses or co-habitation partners seeks to change his or her tax residency while the other remains a Greek tax resident, documents relating to the change of tax residency must be provided as well as supporting documents that prove the applicant is indeed outside Greece and has organized his or her life abroad permanently or constantly.

Relevant proof includes information regarding employment abroad which shows evidence of the permanent or long-term nature of employment, as well as evidence of the existence of an overseas bank account and documents relating to proof of overseas accommodation such as utility bills, tax, insurance or corresponding registration abroad, for example social security number.

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SOUTH AFRICAN FOREIGN EMPLOYMENT EXEMPTION REPEAL AMENDED

The Draft Taxation Laws Amendment Bill proposals in July 2017 to repeal the foreign employment exemption would result in South African tax residents being subject to tax on foreign employment income earned with effect from 1 March 2019.

The exemption currently provides that where a South African is resident for tax purposes while physically employed outside of South Africa for a period of more than183 days in any 12 month period, of which more than 60 days are consecutive, then any remuneration earned is exempt from tax in South Africa.

The current exemption is purely reliant on the source of income being derived outside of South Africa and dependent on the number of full days physically outside of the country. The exemption ignores the fact whether tax was paid in a foreign jurisdiction or not and employers and employees need only keep track of the days abroad.

However, following the release of the Draft Bill, National Treasury engaged in consultations with various stakeholders which raised a number of concerns. Namely, that the cost of living in foreign countries is higher than in South Africa and should be taken into account in the design of the tax.

In addition, the proposed repeal of the exemption would lead to accelerated formal emigrations or breaking of tax residency, as well as cash flow problems due to the fact that the foreign tax credit can only be claimed on assessment.

In terms of the revised version of the Taxation Laws Amendment Bill (promulgated as Taxation Laws Amendment Act, 2017 (Act No. 17 of 2017) on 18 December 2017) the Act will now be amended to allow for the first R1million of foreign remuneration per year of assessment to be exempt from tax in South Africa, provided remuneration is for employment outside of South Africa and the test for the required number of full days physically outside of South Africa is met.

The amendment will come into operation on 1 March 2020 and may allow expatriates affected by the amendment time to renegotiate current employment contracts or adjust their circumstances, as well as formalise tax residency status if they intend breaking their South African tax residency.

How can Mazars help
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SPOTLIGHT ON REPORTING REQUIREMENTS FOR WORKERS POSTED WITHIN EUROPE

Compliance with administrative reporting and wider obligations in the destination country are be-coming increasingly important for employers posting workers to other EU Member states for work, service contracts or group assignments.

The rules in force in each of the EU Member States are based on Directive 96/71 / EC on the posting of workers and the Enforcement Directive 2014/67 / EU adopted thereon, and had to be trans-posed into national law by 18 June 2016.

The Posting of Workers Directive aims to protect individual economies from wage and social dumping, as well as the safeguarding of workers' rights within the EU. Posted workers should enjoy the same social and labor protection as employees in the destination country, such as working time, holiday, minimum wage or working conditions. Although German employees posted to other EU countries will continue to be subject to German social security legislation through A1 certificates.

The national regulations contain requirements for any electronic reporting procedures in other EU countries. Non-resident employers are usually required to electronically register online and to post single employee postings online. Posted workers' employment contracts, payroll, start-up, end-of-work and duration documents, salaries documentation, posted company details and social security contributions must be deposited with the respective representative, depending on national regulations.

In some countries, the company sending workers has to designate representatives as key contact persons to liaise with the respective authorities. The documents to be submitted must be kept by the representatives.

Failure to enroll posted workers, non-compliance with retention requirements or if no representative is named will result in fines for the posted company.

How can Mazars help

Our colleagues within the international Mazars partnership will be pleased to assist you in the respective EU member states in dealing with the respective administrative reporting obligations and the fulfillment of additional duties. For more information please contact your local advisor or

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