

GLOBAL MOBILITY ALERT

February 2016



About Mazars

Mazars is an international, integrated and independent organisation, specialising in audit, accounting, and tax, legal and advisory services. We rely on the skills of more than 15,000 professionals in the 73 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

Welcome to the February issue of our Global Mobility Alert.

It's that time of year when businesses review the events and occasions that have taken place and have considered year-end planning strategies.

This Alert highlights the latest Global Mobility developments and hot issues in Canada and Croatia, some EU Immigration issues which might be of interest when planning your strategies and the major changes in the Romanian personal income tax legislation.

We look forward to contributing to your goals in 2016.

Kind regards,

Steve Asher
Head of Mazars Global Mobility Services

EXPATS IN CROATIA

By joining the European Union in 2013, Croatia has become more interesting to investors and foreign companies in general. Plus Croatian tax residents and companies based in Croatia have become more interesting for cooperation and joint business ventures.

Preparation

Before an expat can come to Croatia the following steps should be taken:

- providing Personal Identification Number (PIN)
- registration into Register of Taxpayers;
- registration in front of Croatian Health and Pension Institutions (if there is no A1 or other similar certificate);
- other registrations and documents, depending on the assignment structure.

Tax residency

Individuals shall be deemed to have domicile Croatia if they own or possess a home (a flat) for not less than 183 days in one or two calendar years. Actual residence in such home is not required.

Therefore, there is a high possibility for individuals to become Croatian tax residents. However, Croatia applies Double Tax Treaties with 57 countries and Tax Administration applies OECD Model Tax Convention on Income and on Capital.

Tax rates

There are three tax brackets with progressive tax rates: 12%, 25%, 40%. Taxable income represents gross income less pension insurance contributions (20%) and personal allowance.

Tax base (EUR)		Tax rate
Monthly	Yearly	
Up to EUR 290	Up to EUR 3.480	12%
Between EUR 290 and EUR 1.735	Between EUR 3.480 and EUR 20.820	25%
Above EUR 1.735	Above EUR 20.820	40%

Employment income is highly taxable in Croatia.

However, there are several sections in which changes are expected in near future (eventual double personal allowance or abolition of 40% tax).

Allowances and non-taxable payments

Each individual is entitled to a personal allowance of HRK 2,600 per month. The deduction may be further increased for each dependent family member.

A Croatian employer can provide the following non-taxable payments to expats (regardless on his tax residency status):

- daily allowances for business trip (inland and abroad);
- monthly ticket for traveling to/from workplace;
- reimbursement for using private car for business purposes

In line with Croatian legislation, the **vast majority of other costs** involved in assignment and movement **are deemed to be taxable** (e.g. flight to destination, transportation of furniture and belongings, housing allowance, language course, costs for children going to international school, etc.).

Social contributions

Contributions are calculated from the gross salary and on the gross salary:

1. Contributions from the base (deduction of tax base):

- 1.1. pension insurance contribution (20%);

2. Contributions on the base:

- 2.1. health insurance contribution (15%);
- 2.2. contribution for health care at work (0,5%);
- 2.3. employment contribution (1,7%)

How can Mazars help?

If you would like to know more about expats in Croatia please contact your local advisor or Andrija Garofulic, (andrija.garofulic@mazars.hr, +385 99 653 68 28), or Marko Grubelić (marko.grubelic@mazars.hr, +385 99 242 3848)

NON-RESIDENTS PROVIDING SERVICES IN CANADA

Many Canadian companies do business with non-resident service providers. These non-residents need to be aware of the Canadian tax withholding, remitting and reporting requirements that exist in relation to these services.

Every person paying to a non-resident person a fee, commission or other amount in respect of services rendered in Canada is required to withhold and remit 15 percent of such payment (hereafter "R105"). If the services are rendered in the province of Quebec, the payment is subject to an additional 9 percent withholding tax. Payments that are not in the nature of income to the non-resident are not subject to withholding. If all of the non-resident's services are rendered outside Canada, the R105 withholding does not apply.

R105

The R105 withholding operates as an installment in respect of the non-resident's potential Canadian tax liability for regular income tax. The non-resident can apply to the tax authorities for a refund of the tax withheld if the amount earned by the non-resident is not taxable in Canada. To claim a refund of the withheld tax, the non-resident is required to file a return no more than 3 years from the end of the particular taxation year.

The withholding obligation may be waived, in certain circumstances, by filing a request with the Canada Revenue Agency. A separate additional waiver could be obtained from the Quebec tax authorities, if the services are rendered in Quebec. Waivers can be obtained based on the provisions of a treaty or based on anticipated net income.

Treaty based waivers

There are three potential situations for obtaining a treaty-based waiver:

- (a) where a non-resident independent individual earns less than \$5,000 CAD for the current calendar year (including expenses reimbursed);



- (b) where a non-resident person's presence in Canada is not "recurring" and where he or she provides services for less than 180 days under the current engagement; or
- (c) where a non-resident person whose presence is "recurring", but whose cumulative presence is less than 240 days during "the period", and less than 180 days under the current engagement.

If the non-resident meets the first test, then the tax authorities will grant the waiver without exception. However, if the non-resident applies for a waiver on the basis of the second or third test, the tax authorities may deny the waiver if the non-resident's facts fit into an exception category outlined in the tax authorities guidelines.

Income and expense based waivers

If the non-resident does not qualify for a treaty based waiver, the income and expense waiver could still be used. This waiver provides that the anticipated net income will be subject to tax at graduated rates rather than the 15% withholding on gross revenue. The waiver process is cumbersome, but it is a path to consider; otherwise the service provider may suffer reduced or delayed revenues and cash flow issues. It should be noted that failure to withhold, remit and report the R105 taxes triggers significant penalties, and interest charges could apply to the payer. Furthermore, there is no statutory limitation period for R105 assessments.

Hence the worthiness of identifying risks early to avoid unwanted tax exposure.

How can Mazars help?

If you want to identify risks early to avoid unwanted tax exposure please contact your local advisor or Arda Minassian (arda.minassian@mazars.ca, +1 (0) 514-845-9253).

EU NATIONALS WORKING IN THE EU

Many people are aware of the fact that working within the EU as a European national is far more straightforward than for nationals of non-EU countries.

In general, under the Treaty on the Functioning of the European Union EU citizens are entitled to:

- look for a job in another EU country
- work there without needing a work permit*

*Free movement of workers also applies to the countries in the European Economic Area: Iceland, Liechtenstein and Norway.

This essentially means that for employers and workers wishing to move workers across European borders, there aren't any requirements around having to obtain a visa or a work permit prior to travel.

However, what is less commonly known is the fact that despite an EU national perhaps not requiring a work permit or visa for work in an EU country, many countries across the EU do still have local registration or reporting requirements for EU workers which must be complied with. In particular, many EU countries require EU workers to report their presence to the relevant authorities (often the town hall or local police station) within a reasonable period of time (usually 3 months) after arrival and may impose a penalty, such as a fine, if they fail to do so. There are also practical implications relating to being paid locally or enrolled for social security, which means it is not a step that can be ignored.

Set out below are some examples of how this can apply in practice and also to illustrate the differences that can occur from one country to another.

Denmark

In Denmark, EU nationals who wish to work will need to obtain an EU registration certificate if they are intending to stay for a period of 3 months or more. As opposed to a residence permit issued under the provisions of the Danish Aliens Act, a registration certificate is merely a proof of the rights already conferred on a Union citizen/an EEA national under the EU rules on free movement, but is required nonetheless. It is also necessary to complete the CPR Registration (Centrale Person Register) in order to obtain the civil registration number/personal identification number to then be able to be put on local payroll and/or open a bank account. The CPR Registration is completed at the Local "Borgerservice" office in the municipality relating to the employee's current address in Denmark. and corporations) that intend to regularize unreported domestic income.

Spain

Similarly, in Spain all EU citizens planning to live and work for more than 3 months should register in person at the Oficina de Extranjeros in their province of residence or at designated Police stations. Employed workers must produce a declaration to the effect that they have been hired by the Spanish employer or a certificate of employment. These documents must include, as a minimum, details of the name and address of the company, tax identification and Employer's Social Security Number.

Estonia

In Estonia it is necessary to register within 3 months of arrival. As an EU citizen, the worker obtains the right of temporary residence upon registration of their place of residence in the population register of Estonia. Within one month from registration of the place of residence they must also apply to the Police and Border Guard Board for an Estonian ID card which certifies the right of temporary residence. If the individual does not register their residence after 3 months they are considered to be a person residing illegally on the territory of Estonia!

Sweden

In Sweden, it is not necessary to register after three months, however, if the EU worker intends to stay longer than a year they will need to register in the Swedish population register.

UK

In the UK there are no requirements to register at all.

It is therefore important for employers and indeed workers to be aware of these requirements when travelling into other EU locations for work, since requirements do differ from one EU country to another. In some countries in addition to registering it will also be a requirement that the individual carries the registration certificate with them at all times, whereas in other locations this is not required. EU Family members will often also need to register if accompanying the worker and staying for a duration over 3 months.

Although in most instances the employee cannot be expelled for failure to register (unless there are serious public policy or public security grounds), it has been known for the authorities to be fairly resolute in administering fines which can be as much as EUR 200 in Belgium for example, for non-compliance.

How can Mazars help?

If you have employees regularly working across Europe and wish to know more about the registration requirements in the countries in which they are working, please contact the Mazars International Immigration Services team: Alison Hutton (alison.hutton@mazars.co.uk, +44 (0)20 70634682) or Isis Mazzini (isis.mazzini@mazars.co.uk, +44 (0)20 70634191).

MAJOR CHANGES IN THE ROMANIAN PERSONAL INCOME TAX LEGISLATION AS OF 1 JANUARY 2016

As of 1 January 2016, some tax changes will come into force that will effect both inbound and outbound assignees of Romania. The most significant changes are the following.

1. Changes to the tax residency concept

Based on the provisions of the Romanian Tax Law in force until 31 December 2015, a foreign individual meeting the Romanian residency criteria (more than 183 days of presence in Romania or center of vital interests located in Romania) would become taxable in Romania on their worldwide income as of 1st of January of the year following the one in which the residency conditions were met.

In addition, upon departure from Romania, tax resident individuals of Romania (either Romanian or foreign individuals who gained Romanian tax residency) are taxable on their worldwide income until 31st of December of the year when they no longer meet the Romanian residency criteria.

Two situations arose; (1) Where a foreign individual could have been taxed nowhere on his worldwide income for the period between the date he was no longer considered a tax resident of his country and (2) 1st of January of the following year when he met the Romanian residency criteria. In addition they would be double taxed for the worldwide income they derived during the period when they met the tax residency conditions of another country and 31st of December of that year (if no Double Tax Treaty would prevail).

As of 1st of January 2016, Romania will change the tax residency rules and shall consider a Romanian resident taxable in Romania on worldwide income as of the date when they met the Romanian residency criteria. Similarly, a Romanian tax resident will be taxable on the worldwide income derived until the date they no longer meet the Romanian residency conditions.

2. Clarifications regarding the stock option plan

Based on the provisions of the Romanian tax legislation in force until 31 December 2015, stock option plans were considered non-taxable at grant and exercise. Nevertheless, the Romanian tax legislation did not provide a definition for stock option plan.

There are not many Romanian companies whose shares are admitted to trading (we usually see group level listing). Therefore, even though the tax legislation provided that the right to receive stock under stock option plans was considered non-taxable at grant and exercise, there were not many stock option plans that met these exemption conditions.

Note that this does not imply that Stock Option Plans to be taxable only that the conditions for the exemption not be applicable.

With effect from 1 January 2016, the definition of a stock option plan will include:

- Administrators and Directors of the Romanian company or any affiliated company;
- Shares received in affiliated companies;
- Nil acquisition price.

Also, there is a new condition introduced; only those plans for which there is a year time difference between the moment of grant and the moment of exercise will qualify as stock option plan. This might be a good time to review your remuneration policies in order to determine whether your stock option plan can qualify as such and benefit from the income tax and social contributions exemption provided by the Romanian Fiscal Code.

3. Dividend withholding tax and personal income tax on dividends will decrease

From 1st of January 2016 dividend withholding tax will decrease from 16% to 5% . Generally, the dividend withholding tax for dividend income obtained from Romania is a final tax and does not have to be declared by means of an annual tax return.

However, dividend income obtained from abroad by a Romanian tax resident has to be declared by means of an annual tax return; generally by 25 May of the year following the one in which the income was obtained. From 1 January 2016, the Personal Income Tax on dividends obtained from abroad will also decrease to 5%.

With effect from 1 January 2017, the dividend income will be mandatorily subject to health insurance contributions (5.5%), capped at the level of 60 medium gross salaries/year (if it is the only income on which the contribution is due, apart from salary). Even though no exact figures are yet available, the cap should amount to approximately 32,200 EUR, giving a maximum contribution of approximately 1,771 EUR/year.

How can Mazars help ?

If you wish to review your remuneration policies please contact your local advisor or contact Edwin Warmerdam (edwin.warmerdam@mazars.ro, +40 21 528 5757) or Claudiu Ionita (claudiu.ionita@mazars.ro, +40 21 528 5757).

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