



## News May/June 2011

### **FRANCE** INTRODUCES A TAX WITHHOLDING OBLIGATION ON FRENCH SOURCE STOCK-OPTIONS AND FREE SHARE AWARD GAINS REALIZED BY NON-RESIDENT TAXPAYERS

*Effective April 1, 2011*

French income tax will be withheld at source on French source profits made from share options and free share awards if the beneficiary is not domiciled in France, for tax purposes, in the year the shares are sold.

Given the current absence of administrative comments on this new obligation, a lot of questions are still outstanding: methodology to be retained to source the gain in a context of international mobility, entity which has the obligation to withhold the tax (bank managing the plan or employer?), tax rate applicable depending on the beneficiary situation and the amount of gain realized.

**Contact French office**

### **SWEDEN** SIGNS NEW TAX AGREEMENT WITH SWITZERLAND

*New agreement signed on the 28th of February 2011 (effective 1st of January 2012)*

According to the new agreement Sweden will have the right to tax capital gains on shares that a person, who has moved from Sweden to Switzerland, sells within a ten year period after the move. According to the old rules Switzerland had the sole right of taxation.

According to the new agreement Sweden will have the right to tax pensions with their source in Sweden. The old agreement provided that the country of residence had the sole right to taxation of pensions not paid through the social security system.

The news that has made the biggest headlines in Sweden is the introduction of an exchange of information in the new agreement with Switzerland. From the 1st of January 2012 Swedish Tax Authorities are entitled to request information regarding Swedish capital in Swiss banks.

**Contact Swedish office**

### **DANISH** INBOUND EXPAT REGIME CHANGES

*26 % TAXATION NOW WITH A DEMAND OF 10 YEARS NONE DANISH TAX LIABILITY*

THE INBOUND EXPAT TAX REGIME THAT ENABLES INDIVIDUALS TO BE TAXED WITH ONLY 26 % ON INCOME DURING A FIVE YEAR PERIOD HAS UNDERGONE SOME CHANGES AND ONE IN PARTICULAR IS DRASTIC: THE DEMAND FOR NO DANISH TAX LIABILITY PRIOR TO ENTERING THE REGIME IN DENMARK HAS BEEN LIFTED FROM 3 TO 10 YEARS.

ESPECIALLY DANISH PROFESSIONAL ATHLETES AND FOOTBALL PLAYERS WILL SUFFER UNDER THIS ARRANGEMENT AS IT HAS BEEN A GROUP KNOWN TO GO ABROAD FOR SOME YEARS IN ORDER TO RETURN TO DENMARK CRAVING INTERNATIONAL SALARY LEVELS, WHICH WAS POSSIBLE WITH THE NIMBLE TAXATION OF 26 % CTR. 51,5 % STANDARD TAXATION.

**Contact Danish office**

## **PORTUGAL** APPROVAL OF FEES FOR TAX ARBITRATION PROCEEDINGS

Following the publication of Decree-Law number 10/2011 of the 20th of January which approved the Tax Arbitration Regime, the Centre of Administrative Arbitration (CAAD) published on the 13th of April the respective Regulation of Fees. Therefore, the Tax Arbitration currently contains all the required regulation to its full operation. The fees approved by said regulation include all the expenses regarding the arbitration proceedings, notably those resulting from the conduction of proceedings, fees of arbitrators and evidencing production. The referred arbitration rates shall be calculated according to two criteria: (i) the value of the proceedings (ii) and the form of designation of the arbitrator, being that regarding the latter it may be the CAAD or the claimant to proceed with such appointment.

[Contact Portuguese office](#)

## **POLAND** VAT TAXATION OF FREE-OF-CHARGE DISPOSAL OF GOODS AND FREE-OF-CHARGE SUPPLY OF SERVICES

THE RECENT CHANGES IN POLISH VAT LAW WHICH CAME INTO FORCE ON 1 APRIL 2011 REFER IN PARTICULAR TO CHANGES IN THE VAT TREATMENT OF THE FREE-OF-CHARGE DISPOSAL OF GOODS AND FREE-CHARGE SUPPLY OF SERVICES. WITH REGARD TO THE FREE-OF-CHARGE DISPOSAL OF GOODS, THE VAT LAW AMENDMENT EXPLICITLY STIPULATES THAT ANY "GRATUITOUS" SUPPLY OF GOODS SHALL BE SUBJECT TO VAT TAXATION. BEFORE THAT CHANGE THE LITERAL WORDING OF POLISH VAT PROVISIONS ALLOWED FOR TREATING THE FREE-OF-CHARGE DISPOSAL OF GOODS PERFORMED IN CONNECTION WITH THE BUSINESS ACTIVITIES AS NON-TAXABLE TRANSACTIONS.

[Contact Polish office](#)

## **MALTA** HIGHLY QUALIFIED PERSONS RULES

*15% FLAT RATE TAXATION ON QUALIFYING EMPLOYMENT*

AN INDIVIDUAL EARNING INCOME FROM A QUALIFYING CONTRACT OF EMPLOYMENT AND HOLDING 'ELIGIBLE OFFICE' WITH A COMPANY LICENSED OR RECOGNISED BY THE MALTA FINANCIAL SERVICES AUTHORITY IS SUBJECT TO TAX AT A FLAT RATE OF 15% PROVIDED THAT THE INCOME AMOUNTS TO AT LEAST €75,000. THE 15% RATE IS IMPOSED UP TO A MAXIMUM OF €5,000,000 AND ANY INCOME IN EXCESS IS EXEMPT FROM TAX. THE SCHEME MAY BE APPLIED RETROACTIVELY FROM Y/A 2011.

[Contact Malta office](#)

## **HOLLAND** THE FLEXIBLE B.V. ( BV is a Dutch limited liability company)

*It is expected that the regulation regarding the new type of BV will be finalized and announced this year. It is expected that the new regulation will include the following:*

- No minimum capital requirement (currently this is set at € 18,000.00).
- Extensive simplification of the capital protection rules (issue of new shares and purchase is currently subject to very strict requirements).
- Groups of shareholders can appoint their "own" directors.
- The voting right is completely released and may be possible to issue shares without voting rights.
- Certification will be relaxed.
- There will be no more mandatory blocking scheme applicable for shares.
- The dispute regulation will be reviewed and adjusted thoroughly.
- Directors will be jointly responsible for benefits paid out.

[Contact Holland office](#)

## **LATVIA** THE INCOME LEGALIZATION OF INDIVIDUALS

Offer to perform the Declaration of the previously not declared income of individuals and payment of the appropriate personal income tax in the beginning of the Year 2012.

The Ministry of Finance of the Republic of Latvia has announced for official harmonization between the institutions of State administration the Conception of the legalization of the income of the individuals. There are offered two options:

1. the individual from January 1, 2012 till April 1, 2012 shall declare so far not declared income, shall pay the personal income tax rate, late charge and penalty and shall not be released from administrative and criminal liability.
2. the individual from January 1, 2012 till April 1, 2012 shall declare so far not declared income and shall pay personal income tax rate of 10%. The late charge and penalty shall not be calculated and the individual shall be released from administrative and criminal liability.

If the Cabinet of Ministers shall support the principle of the legalization of income, the Ministry of Finance jointly with Ministry of Justice shall prepare and till July 1, 2011 shall submit appropriate proposals to the Parliament of the Republic of Latvia for the Draft of the Law „On declaration of the economic situation of the Individuals” for second or third reading.

[Contact Latvia office](#)

## **LITHUANIAN PROGRESSIVE TAX SYSTEM**

The major debate is going on at this moment regarding progressive tax system adoption in Lithuania. On the last week of March, 2011 the proposed amendment to the PIT (Personal Income Tax) laws was approved by Lithuanian Parliament. Therefore if the proposed amendment will pass two more readings, the proposed progressive tax system in Lithuania will become enforced.

The proposed Amendment regarding the adoption of progressive tax system to the PIT law (No XIP-3038) was introduced on March 24th, 2011. Currently PIT is at 15% tax rate in Lithuania. Accordingly to the proposed amendment to the PIT law, income part, not exceeding 13900 EUR per year will be taxed at 15% tax rate. In case the income per year exceeds 13900 EUR, but does not exceed 34754 EUR will be taxed at 33% tax rate. In the event if the annual income exceeds 34754 EUR, it will be taxed at 40% tax rate. Due to Lithuanian economical situation the project is broadly criticized.

Minimal salary in Lithuania remains the smallest one in the entire Baltic region and is of 236 EUR per month before the taxation. Therefore and in accordance with presented statistical information in Verslo Zinios (one of the leading business newspapers in Lithuania) there are only approx. 3000 employees in the entire Lithuanian population receiving more than 2900 EUR/month. These facts show the existence of the shadow economy in Lithuania which is believed to increase in case the progressive tax system is adopted and the tax burden will be moved to those employees, whose financial situation is still considered stable.

[Contact Lithuanian office](#)

## **ESTONIA THE RIGHT TO DEDUCT IMPUT VAT RETROACTIVELY**

European Court of Justice made a decision regarding Estonian VAT deduction

The preliminary ruling of the European Court of Justice concerned the right to deduct corporate input VAT in a situation where the company was not appropriately registered as a taxable person for VAT purposes at the time of the commercial transactions, and wished to deduct input VAT retroactively after registration. The Court is of the opinion that the national law may not restrict the right to retroactively deduct input VAT, if the VAT payer fulfils all conditions established in the Directive for deduction of VAT, and registers as a VAT payer in the Member State within a reasonable period of time after being obliged to do so.

[Contact Estonian office](#)