UnitedTaxNetwork

Newsletter

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Dear Sir, Madam,

United Tax Network is delighted to present you with a collection of relevant and worldwide tax news. United Tax Network is the fastest growing professional organisation providing a complete range of services in the field of international taxation.

This newsletter is another step in accomplishing United Tax Network's vision: Making world class expatriate tax consultancy and compliance services available to everyone at reasonable fees. All member firms of United Tax Network are included on our new website so you easily can find your local advisor.

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Content *(Click the country for article)*

Quick News

>> Italy

The Italian voluntary disclosure program (scudo fiscale) for undisclosed offshore assets has been extended to April 30 with rates up to 7%

Italian authorities have clarified that the Italian voluntary disclosure program applies to Stock Options (not exercised) and to contribution to non Italian pension funds, with penalties up to 50% of their contribution.

Statute of Limitations for undisclosed offshore assets has been doubled, up to 9 years.

Luca Valdameri

>> USA

The US Treasury Department has announced, via Announcement 2010-16, that the FBAR (Foreign Bank Account Report) filing requirements have been suspended for 2009 and earlier years for nonresident alien individuals (i.e., individuals who are neither US citizens nor residents for income tax purposes at any time during the year) and entities that are not domestic entities.

Claudia Howe

France

French tax authorities recognize civil unions registered abroad

The "family coefficient" system that applies for calculating French income tax has a very important impact on the French income tax liability: "the more dependents or children you have, the less tax you pay"!

In France, married taxpayers and persons subject to a French registered civil union "PACS" are required to file joint tax returns which is, in most of the cases, more favorable than filing separately.

The French parliament recently voted in a new law that recognizes foreign civil unions for French income and inheritance tax purposes. This new provision will apply for the filing of 2009 French income tax returns (in May 2010).

On January 13, 2010, the French tax authorities established a list of foreign civil unions that qualify in France for tax purposes: "Civil partnership" in the United-Kingdom, "Cohabitation légale or Wettelijke samenwoning" in Belgium, "Geregistreerd partnerschap" in The Netherlands, "Partenariat legal" in Luxembourg, "Eingetragene Lebensgemeinschaft" in Germany, "Uniones Estables de Parejas" in Spain, "Registret partnerskap" in Norway, "União de Facto" in Portugal, "Registerat partnerskap" in Sweden, "Registreret partnerskab" in Denmark, etc.

Civil unions from countries not covered by this list may also be recognized in France if considered as equivalent to the French civil union "PACS", i.e. registered with the foreign administration and subscribed in order to organize common life. In any case, the foreign civil union must comply with the international public order.

New tax on bank and financial institution employees' incentive compensation

The French government is about to amend the 2010 French Finance Act including a new tax on bonuses and awards paid to employees of banks and financial institutions (many of which received some government assistance during the financial crisis).

This new tax would apply to bonuses paid to employees in connection with their 2009 performances and whose activity is likely to expose the bank to a financial risk on the financial trading market. The tax would be due irrespective of the year of payment.

Quick News

>> Iraq

Upstream income tax law

The Iraq Parliament has approved the amendments to the Income tax law imposing corporate income tax at the rate of 35% on foreign companies carrying on upstream activities under contract. The general income tax rate is 15%. The law will become effective once published in the official gazette, and the executive regulations are expected soon thereafter.

Dominic Treays

>> Spain

The existing 25% lower rate applicable to SME's (Small and medium sized enterprises) will be further reduced to 20% for companies maintaining and creating new employment.

Fernando Del Canto

>> Belgium

The European Court of Justice decided January 21st that the Belgian principle relating to abnormal and benevolent advantages do not violate EU – laws.

Filip Camps

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The tax rate would be 50% on payments made in excess of EUR 27 500 per employee and would apply to any award in recognition of the individual or collective performances, whether the payment is made in cash, shares or stock options.

For bonuses already paid the tax would be payable to the French tax authorities within the first 25 days of the month following the conclusion of law or before the 25th of the month following the award decision for bonuses and awards made after the new law enters into force.

Celine Rang

Egypt

Egypt introduces new WHT procedure for non-residents

Egypt has introduced a new withholding tax (as of December 2009), which applies from the 5th of January 2010.

The new procedure stipulates that if a tax treaty provides for an exemption or reduction of the domestic withholding tax on any outbound interest/royalty payments, the local paying agent (resident in Egypt) must withhold the full domestic rate from the non-resident. The non-resident must then apply for a refund to the tax authority within 6 months of the payment. Once all documents have been submitted, the tax authority is required to revert back within 90 days.

This does not affect interest payments on Treasury bills / government bonds which are already accommodated by other previous rules from the MoF.

Dominic Treays

Iraq

Iraq approves draft amendment for housing

In late November, Iraq's Parliament finally approved the first draft amendment to their investment law (No 13 of 2006) aimed at encouraging foreign developers to invest in housing projects through the availability of land ownership and other incentives. Though approval is still required from the Presidential Council, investors are already beginning to secure investment opportunities.

Aside from the growing population in Iraq (2.6% annually), the large number of refugees that are or will return to Iraq (estimated at 0.5 million by 2010), and displaced persons within Iraq requiring housing, there is also an increasing migration of the existing population to the urban and central areas as they chase work. The National Investment Council (NIC) estimates a requirement of 3 million new homes over the next 5 years.

Whilst Iraq desperately needs foreign investment for both housing and infrastructure throughout the country, it has been very unclear what the benefit is to foreign investors (since they are currently not able to own land). The Kurdistan Region, governed by the Kurdistan National Assembly, has its own investment law (Law No 4 of 2006) which in fact does allow foreigners to own land, but the rest of

Quick News

>> Ivory Coast

Ivory Coast introduces crisis tax

Within the 2010 Budget, a new contribution has been announced to assist in exiting the economic crisis. For a one year period only any company with a pre-tax profit larger or equal to CFAF 1 billion at the end of the calendar year in 2009 will be subject to a 3% tax on total operating costs.

However some tax incentives have also been granted to companies (newly incorporated or resuming activities) operating in the areas affected by civil war, including an exemption from corporate income tax for 8 years. From 2010 to 2012, they will also be exempt from the withholding tax on interest relating to their inter-company payments.

Dominic Treays

Iraq has until now had the additional challenge. However, the draft amendment to Iraq's Foreign Investment Law would enable foreign investors to acquire land from both the government and private sector for the purpose of developing a housing project at an agreed price. Various tax exemptions could then also be granted as per the normal mandate of the NIC and PICs. The foreign investment law requires investors to use Iraqi Nationals in place of foreign workers wherever possible, and though some media have reported there could be a new ruling on this, it is generally accepted that this is unlikely.

Dominic Treays

Netherlands

New ruling: What is an "employer" for the purpose of article 15 of the tax treaty – up to 60 days in Netherlands are now "safe"

Recently the Dutch State Secretary of Finance issued a decree providing guidelines regarding the concept of "economic employer". This relates to the article in connection with dependent personal services as outlined mostly in article 15 of the tax treaties concluded.

Based on article 15, a tax non-resident individual can be present in The Netherlands without triggering any Dutch tax liability provided that:

This individual was present in the Netherlands for a period or periods not exceeding in the aggregate 183 days in a certain period, and

The remuneration is paid by, or on behalf of, an employer who is not a resident of the Netherlands, and

The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the Netherlands.

The Dutch Supreme Court has already decided that from a Dutch tax point of view, the so-called economic employer concept applies determining whether the remuneration was paid by, or on behalf of, an employer in the Netherlands, as mentioned in section 2 above.

From a practical point of view the Dutch State Secretary of Finance has now ruled that in case of an intra-company transfer to the Netherlands not exceeding 60

Quick News

>> Kuwait

Kuwait draft labour law gains approval

The New Labour Law that was passing through the Parliament for approvals December calls for an establishment of a public authority for manpower in order to control and supervise the recruitment of expat workers in Kuwait. The new legislation is principally geared to protecting the rights of workers. Employers would be required to gain advance approval from the Ministry of Labour before employing expat workers.

The new law aims also to provide free movement of labour, allowing workers to transfer from one sponsor to another. Mandatory holidays, and redundancy pay will also be provided for, and workers at remote locations should also be provided adequate accommodation and transport. Women are prohibited from working nights (between 10pm - 7am), unless their roles are specifically required within the public sector (such as hospitals). However, employers will be able to terminate an employee's contract in the event of unreasonable absence for 7 consecutive days, or if they are found guilty of any crimes.

Dominic Treays

working days in a period of 12 months, the home country company could in principle be regarded as the economic employer. Consequently, the remuneration relating to this period should in principle not be subject to Dutch taxation.

Siegfried Jagga

Poland

EU VAT Directives implemented into Polish Law

The below changes are the result of the implementation into the Polish tax law, three VAT Directives adopted by the EU Council, concerning new rule of the place of supply as well as revised VAT refund and the recapitulative provisions.

Beginning from January 1st the place of supply of services is dependent on whether the recipient of the service is a business or private consumer. As from January 1st it will be possible for EU companies to reclaim foreign VAT electronically in their home country.

Starting from January 2010, obligations to submit recapitulative statements (EC list) will be extended to the supply of services made to a business customer who is liable to pay the VAT tax on that service in the member state in which he is established, except when that service would be exempt in that member state.

Anna Bieganska

Germany

Health Insurance Contributions now fully deductible – Increase of children relief and of deductions of the taxable income for children

From the tax year 2010 and on the health insurance contributions are deductible from the taxable income without limits. This concerns mandatory contributions and some private contributions considered as equal to mandatory contributions. The new law is also applicable for persons with limited taxability in Germany, which means that they have no permanent domicile in Germany.

Also from the year 2010 and on the children relief amount will increase per child and month for the first and second child to € 184, for the third child to € 190 and for every further child to € 215. The deduction of the taxable income for each child will increase to € 7.008 per year.

As until now the children relief has to be added to the German income tax burden which means that the children relief and the tax advantage for children are not granted cumulative.

Jörg Assmann

(Further news from Germany following below)

Quick News

>> Botswana

NEW FISCAL POLICY CHANGES

BUDGET SPEECH FEBRUARY 2010

VAT rate to be increased from 10% to 12 % with effect from 1 April 2010 with the registration threshold increased to P500 000

Current two-tier company tax system to be abolished with effect from 1 July 2010. Companies to be taxed at a flat rate of 25%

Approved manufacturers will be taxed at a flat rate of 15%

Approved IFSC companies will be taxed at a flat rate of 15% (unchanged)

Withholding Tax rate on dividends to both residents and non-residents to be reduced to 7.5%

Detailed review of the Income Tax Act completed and currently going through a process of consultation. Proposed changes to be presented to Parliament shortly.

(not exhaustive list)

Parks Tafa

German Social Contribution changes

As from January 1st, 2010 there will be changes to the Social security Insurance. The alterations to the Social security Insurance calculations (assessment ceilings) will be as follows:

Health Care and Nursing Insurance ceilings increased to 3.750 EUR/month (from 3.675 EUR).

Pension and Unemployment ceilings increased to 5.500 EUR/month (from 5.400 EUR) in the West and to 4.650 EUR/month (from 4.550 EUR) in the East.

The applicable health insurance contribution rates are 7% for employer and 7.9% for the employee (14.9% in total). The unemployment insurance contribution rate is 2.8%.

The threshold at which an employee may elect into a private health insurance has been increased to 4.162.50 EUR (from EUR 4.050). For privately insured employees, the maximum employer contributions are 262,50 EUR / month for health insurance and 36,56 EUR / month for nursing insurance.

Nationwide per diems for benefits in kind are: 1,57 EUR breakfast; 2,80 EUR lunch; 2,80 EUR dinner.

Annette Weinel

Malta

Malta gains QROPS recognition

Following discussions between HM Revenue & Customs (HMRC), the Malta Financial Services Authority (MFSA) and The Maltese Inland Revenue, pension schemes established in Malta may now be considered for QROPS status. A QROPS or Qualifying Recognised Overseas Pension Scheme, is a scheme set up and regulated outside the UK and which is recognised as such by HMRC. Under UK legislation, persons who are no longer resident in the UK are allowed to transfer pension benefits accumulated under a UK Registered Pension Scheme to a

Quick News

>> Tunisia

Corporate Income Tax exemption

Wholly exporting companies are taxable at the rate of 10% effective 1 January 2011. Wholly exporting companies established before this date benefit from whole exemption of their profits during 10 years. Then, the rate of 10% is applicable. It has to be noted that wholly exporting companies created before the end of 2010 should carry out its first export sales before the end of 2011.

Anouar MOALLA

>> Denmark

Biggest tax reform in the history of Denmark

During 2009 the Danish government (with its supporting parties) has succeeded in carrying a number of motions that has resulted in the biggest tax reform ever to have been made in Denmark. Both personal and corporate taxation has a high number of changes. Many of the changes has been having effect since the beginning of 2010. We would naturally urge you to contact us in the event you might have any questions in light of these recent changes.

Jan Dalgaard

qualifying QROPS scheme based outside the UK. QROPS provides greater flexibility to employers and employees as well as qualifying individuals in the range of investment opportunities available, the denomination of the investment portfolio, the creation of wealth early in retirement as well as the possibility to transfer pension benefits from scheme holders to their beneficiaries avoiding annuities and without suffering UK Inheritance Tax.

This is a significant development for Malta and confirms the strong reputation of the Malta Financial Services industry within the sector.

David Borg

Denmark

Payment of back taxes, percentage additions etc. (Personal taxation)

From 1st January 2010 the system for payment of provisional tax, percentage additions to back taxes and percentage allowance of redundant tax has changed.

The deadline for payment of back taxes is still 31st December (income year end). However, after this date it used to be possible to postpone payment of up to DKK 40,000 (≈ € 5,400) in back taxes to the end of June without being penalised for it.

Now this limit has been abolished and if a taxpayer does not pay all of his back taxes before the end of the income year there will be a daily compounding interest for any late payment of back taxes regarding 2009 with an interest of 4.6 %.

Should the taxpayer anyway postpone the payment of back taxes till after the 1st July the rules on percentage addition still have effect, which means that the entire amount will be added with a percentage addition. For any late payment of back taxes occurred in 2009 the percentage addition is 6.6 %.

Further environmental levies on company cars used privately (Free-car)

From 2010 an environmental levy is put on company cars which are used both for business and private matters by the employee. Normally it is only fragments of the value of the car that is added to the employee's salary, which is then taxed.

However, from 2010 the yearly amount of environmental levy will also be added to the car value which will result in a higher taxation to the employee. The idea is to force employees using the free-car arrangement to choose environmentally friendly cars.

Jan Dalgaard

Iceland

Changes to taxation of legal entities

Quick News

>> Qatar

New tax laws in action

The new income tax law came into effect on 1 January 2010. It brings greater clarity to the tax rules.

There is now a single tax rate of 10%. It does not apply to the share of Qatari nationals in companies, or to Qatari companies wholly owned by Qatari nationals, nor to employment income. This rate does not apply to contracts already concluded with the government and to hydrocarbon contracts (the tax rates for hydrocarbon contracts would not be less than 35%). Withholding tax is to be deducted from payments made to non residents which do not have a permanent establishment in Qatar, at 5% from royalties and technical fees and at 7% from interest, commissions, brokerage fees and any other payments for services carried out wholly or partly in Qatar.

Losses can be carried forward for up to 3 years.

Dominic Treays

Income tax on corporations

The income tax rate of corporations has been increased from 15% to 18% and the rate for partnerships is now 32.7% instead of 23.5%. The new income tax rates are applicable from January 1st, 2010.

Incentives for Research and Development

As of January 1st 2010, a company can apply for being certified as an innovation company, thereby enabling the company to a special tax incentive. An innovation company may deduct 15% of its expenses (to the maximum amount equal to 15% of ISK 50,000,000) on research and development from its income taxes in the annual tax assessment. Such purchased services, i.e. performed by another party in the field of research and development, are deductible as well, the maximum amount being equal to 15% of ISK 75,000,000.

CFC

In 2009, the parliament adopted the mechanism of taxing the Icelandic shareholders on their pro rata shares of the controlled foreign corporation's undistributed income as if those shares of income had been distributed as dividends. A "controlled foreign corporation" is defined as a foreign corporation of which more than 50% of the total stock was owned, directly or indirectly by Icelandic residents on any day during the foreign corporation's tax year in a jurisdiction with income tax rate lower than 12%.

Changes to taxation of individuals

Income tax rate

Instead of a flat income tax rate of 37.20%, individuals resident in Iceland are subject to income tax at the following rates:

1. Up to ISK 200,000	37.22%
2. ISK 200,001- ISK 650,000,	40.12%
3. Over ISK 650,001	46.12%

Personal income tax is withheld at source and paid as earned. It is divided into national income tax (24.1-33%) and municipal income tax (averaging 13.12%), making a total of three progressive income tax rates of 37.22%, 40.12% and 46.12%. Personal allowance is granted in the amount of ISK 44.205 pr. month, which makes an annual income of ISK 1,484,580 (USD 11,886) tax-free.

Financial income

Financial income of individuals is taxed at the rate of 18% instead of 10%. However, interest income of individuals not exceeding ISK 100.000 is tax-free.

Wealth tax

In the tax assessment 2010-2013 a special 1,25% wealth tax will be levied on individuals with net capital of ISK 90,000,000 (USD 720,576) and married couples with net capital of ISK 120,000,000 (USD 960,769).

Spotlight: Belgium

SPECIAL TAXATION REGIME for foreign executives in Belgium

In order to avoid high Belgian tax rates, one can apply for the special tax regime for foreign executives in Belgium. The special taxation regime will be granted in case the following conditions are met:

- The company is a multinational company (this means situated in at least 4 countries)
- The assigned person is a person with either management responsibilities, specific knowledge which is scarce on the Belgian labour market or performs a research function
- The assigned person is not a Belgian national
- The assigned person must keep the centre of his economic interests abroad

Benefits of the regime

The tax circular concerning the special taxation regime specifically determines that persons who resort under the special tax regime will be taxable in Belgium on their worldwide group income and on income from Belgian sources. The worldwide group income is all professional income, which is paid by the multinational group of companies worldwide and needs to be declared in Belgium.

The special tax regime has two types of advantages:

1. Travel exemption:

The salary which the expatriate earns in Belgium may be reduced by a travel exemption which means that the taxable salary in Belgium may be reduced by a percentage equal to:

$$\frac{\text{Days worked abroad}}{\text{Total working days}}$$

In concreto this means that if the expatriate earned a worldwide salary (after deducting social security) of 200.000 Euro and has a travel percentage of 25 % he would become only tax liable in Belgium on an amount of 150.000 Euro.

2. Tax free allowances

Besides the travel exemption one can benefit from a number of tax free allowances. These allowances can be split into two groups of allowances.

Group 1:

The sum of the first group of allowances is limited to 11.250 Euro and includes:

- Cost of living allowance
- Housing allowance
- Tax equalisation
- Home leave (once a year)

- Rental income loss
- Travel costs for children studying abroad
- Travel cost due to special circumstances

The actual amount which can be claimed by the expatriate is determined by a technical calculation prescribed by the tax authorities (except for the home leave where the actual price of the travel tickets for the expatriate and his family to the home country are taken). The total sum of these allowances may not exceed 11.250 Euro.

Group 2:

The second group of allowances is unlimited and can be given in addition to the on mentioned 11.250 Euro on the condition that it covers real expenses borne by the expatriate. It consists amongst other things of:

- Relocation costs
- Installation costs
- Schooling cost for the children

To benefit from the special taxation regime, an application is filed with the competent tax authority before the end of the sixth month following the month during which the employee started his activity in Belgium.

TRAVEL-EXCLUSION for foreign executives in Belgium

In the past, the Belgian tax authorities were applying a more rigid attitude concerning proof required for the days spent for business purposes outside Belgium. In a Circular dated August 31, 1995 the guidelines were confirmed in writing to the different Belgian tax offices, who handle the travel audits.

1. Circular of August 31, 1995

The Circular provided that the deduction for foreign business travel will only be allowed to the extent that supporting documents, not only justify the professional character of the time spent outside of Belgium, but also the actual presence of the expatriate. The above dual proof implies providing to the tax authorities a global picture on the basis of reliable and persuasive elements and documents, such as :

- Transportation and other related documents showing the name of the expatriate, the date and place of presence or destination (e.g. a boarding pass etc.). Based on our experience, it is clear that the Belgian tax authorities require the boarding pass in addition to a copy of an airplane ticket (especially in cases where no other justification is available, e.g. one-day trips).
- Invoices resulting from presence abroad, e.g. hotel bills, car rental invoices etc.
- Credit cards receipts for payments abroad of travel and presence costs.
- Proof of attendance at meetings

Although not clearly specified in the Circular, our current experience shows that the following documents are also accepted:

- ✓ A copy of the report prepared for internal purposes regarding the meeting abroad, prepared by the expatriate him(her)self, or indicating his or her presence.
- ✓ Confirmation of the expatriate or of the visited party concerning the meeting, e.g. letter or fax prior to the meeting, follow-up correspondence afterwards indicating date and place of the meeting.

- Proof of presence in the foreign company on that date, e.g. a copy of visitors register, dated entry pass etc..
- Certificates of a third party

We have noted that the Belgian tax authorities remain reluctant in accepting such certificate (as sole justification) unless in very specific and exceptional circum-stances and in case the absence of any other document can be explained.

Although not yet specified in the Circular, statements of a mobile phone can also be used to justify the presence abroad as the international conversations from outside of Belgium are separately indicated.

2. One-day trips

As a final reflection with regard to the one-day trips (whether or not by company car), it should be noted that plain receipts for cash purchases only which are indeed reimbursed by the company, are not satisfactory although the expense reports prove their professional character.

Purchases on route should by preference be made by credit cards to prove the actual pres-ence abroad (name-place-date).

If this is not possible, credit card receipts for other private purchases made en route (not to be reimbursed by the company) should be kept in order to prove the actual presence abroad.

3. Business trips to the home country

The Belgian tax authorities have also experienced that when expatriates travel to their home country, they tend to stay in the accommodation which is still available

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to them over there, e.g. family home, and that a business trip is combined with a home leave.

Due to some abuses in this respect, e.g. private trips were presented as being business trips, the Belgian tax authorities now require additional evidence clearly indicating the professional character of these days or trips, i.e. minutes of meetings, copy of visitors register, dated entry pass etc..

4. Implementation

For some years, the Belgian tax authorities have been adhering to this more rigid attitude as outlined in the above-mentioned Circular on a very regular basis. Expatriates therefore should consider to act in conformity with these guidelines providing as much as appropriate justifications at the time they transmit their expense reports.

We recommend to set-up a file for each calendar year containing additional documentation which is typically not to be enclosed with expense reports but will be helpful at the time of a tax audit. This file should remain available within the Belgian company.

Filip Camps

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