Global Employment Tax Newsletter

May 2022

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Introduction

Dear all,

I wanted to start by acknowledging the war in Ukraine. As businesses we have a responsibility to our people and the communities that we operate in. Our thoughts are with all of those who are affected and I know that many of us are doing what we can to help, either personally or through our employers.

In my new role, as Global Employment Tax and Payroll Leader, I am pleased to share our Global Employment Tax Newsletter. This edition brings updates on employment tax regimes from over 30 countries across the PwC network.

As countries around the world emerge from the COVID-19 pandemic, there continues to be a focus on employment tax and employee support related measures (including in Belgium, France, India, Netherlands, New Zealand, Switzerland, Thailand, United Kingdom, United States).

For some jurisdictions this means the end of support measures and also of COVID-19 related exemptions. It also, in some cases, heralds an increased scrutiny from tax authorities regarding historic activities, in particular in; Germany, Ireland, Poland, Sweden and United Kingdom.

There is also a clear recognition that the world of work is changing and, in some instances, this is reflected in the way in which governments are looking to continue the support for hybrid working through employment tax measures (including in Belgium, Germany, Greece, Netherlands, New Zealand, Portugal, Spain, Switzerland).

And, of course, this edition also reflects that for many countries there has been the start of a new tax year.

As you can see in this edition there is a great deal of activity across the world on employment tax matters and we would be happy to help you with any of your queries.

If you do have any questions or for more information, please contact any of my Employment Tax colleagues, or your usual PwC contact.

Best wishes

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Asia Pacific

High Court rulings on employee vs contractor assessment

In Australia, the engagement of contractors (rather than employees), as workers, has proven to be a highly problematic and often costly area for employers. This is because the taxes and obligations that employers have in relation to their employees, such as Superannuation, Pay As You Go Withholding and the State-based Payroll Tax, can in certain circumstances also apply to contractors, and regulators pursue retrospective application.

Whilst there are several ways employment taxes and obligations can arise for contracting arrangements, failing a 'common law' test for worker misclassification has, in practice, been a key risk. Until recently, this involved applying a multi-factorial test to evaluate the arrangement, with preference given to the substance of the arrangement over its form. This has meant that the terms of a contract may hold little value, if the practical dealings of the parties are inconsistent with the contract.

However, two recent decisions of Australia's High Court have significantly changed the way in which the common law assessment is to be conducted. These cases were **CFMEU and Anor v Personnel Contracting Pty Ltd [2022] HCA 1 (Personnel Contracting) and ZG Operations Australia Pty Ltd and Anor v Jamsek and Ors [2022] HCA 2 (Jamsek)**. In short, these cases found the following:

- The common law test requires an analysis of the **terms of the contract**, rather than the practical dealings between the parties. In conducting this assessment, any variation – whether written or implied, must be taken into consideration.
- In terms of the multi-factorial approach, the High Court showed a preference for certain factors – particularly control – and emphasised the need to assess factors in their commercial context.
- Subsequent conduct should not affect this test, except to the extent necessary to ascertain the full terms of the contract. This may be, for example, where a 'short-form' contract is in place, or where no contract exists.
- Subsequent conduct between the parties, including inconsistencies between the contract and practice, imbalances in bargaining power, etc. should not be considered within the common law test. However, they may be remedied through other avenues, including sham contracting rules and general law.

Further information can be found here.

Single Touch Payroll (STP) – Phase 2

In the 2019/20 Budget, the Australian Government announced that Single Touch Payroll (STP) would be expanded to include additional information. The expansion of STP, also known as STP Phase 2 (STP2), is intended to reduce the reporting burden for employers who need to report information about their employees to multiple government agencies. It is also intended to help Services Australia's customers get the right payments at the right time. The mandatory start date for STP2 reporting was 1 January 2022, however, a large number of digital service providers have been granted a deferral, which covers their customers. We are encouraging employers to use this additional deferral time to appropriately prepare.

The consequences of delayed and/or incorrect reporting for STP2 could include:

- Immediate and direct financial impacts for **employees** potentially resulting in:
  - incorrect tax liabilities,
  - inaccurate child support obligations or payment of social security benefits,
  - adjustments to access to Medicare benefits and
  - changes to superannuation entitlements.
- A potential increase in employee payroll related queries resulting from the real time reporting of income information and/or incorrect reporting of pay data to the Australian Taxation Office (ATO) and Services Australia.
- A potential increase in enquiries from the ATO, given the increased granularity of payroll data being reported and the heightened visibility into employer superannuation compliance.
- Application of Significant Global Entity (SGE) penalties where reporting of employer obligations are delayed e.g. due to an organisation's deferral period being insufficient, and an ongoing penalty exposure arising from incorrect reporting.

To assist in assessing an organisation's readiness for STP2, there are a number of questions in this summary that will help determine whether there may be a need to ensure that an appropriate project plan is in place to facilitate its implementation. Further detail on the reporting requirements and the regulator risk can be found here.

China

Tax administration of equity incentive plans

The State Taxation Administration (STA) recently issued Public Notice (2021) No. 69 which included a focus on strengthening tax administration in relation to equity incentives and to clarify certain administrative requirements. In contrast to previous tax circulars which have provided individual guidance on compliance and registration requirements on equity incentive income with differing timeliness, this notice covers a broader range of plans and specifies the following requirements:

- Companies are required to submit a 'Reporting Form on Equity Incentives' to the tax authorities within 15 days from the date of implementation.
- Companies with an ongoing equity incentive plan must have submitted the Form to the tax authorities before the end of 2021.
- Chinese entities participating in equity incentive plans, with equity of overseas entities as an award or as a measurement of the incentive, must also comply with the above-mentioned requirements, in addition to fulfilling withholding obligations in relation to the employment income.

The publication of this Circular can be seen as a nationwide move towards regulating the tax registration of equity incentive plans for consistency and completeness. Companies should take the opportunity to review their tax registration compliance status and related withholding obligations and be prepared for the ongoing review by the relevant tax authorities.

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Continuation of tax preferential treatment on certain income

The existing preferential treatment for annual one-off bonuses, for equity incentives of listed companies and for non-taxable allowances for foreign individuals, was originally valid for a three-year transitional period (i.e. tax years 2019 to 2021). However, according to Public Notice No. 42 and Public Notice No. 43, the implementation period has been extended. More specifically, the transitional policies for annual one-off bonuses and non-taxable allowances for foreign individuals have been extended for a further two years from 2022 to 2023, and for equity incentives of listed companies extended for one year (2022). These extensions are subject to the relevant employers and employees meeting certain obligations.

Companies should closely monitor local record filing requirements, if any, in relation to the non-taxable benefit treatment adopted for foreign employees, as well as focused areas in case of tax inspections. It is also recommended that companies review their existing arrangements, including in relation to the relevant documentation, internal policies and management procedures as soon as possible to satisfy compliance requirements.

Union Budget 2022

The Union Budget 2022 was introduced in the lower house of the Indian Parliament on 1 February 2022. Under the Union Budget 2022 certain COVID-19 related tax exemptions are being introduced.

It has been clarified that the following amounts will not be considered as taxable in the hands of an employee/ family members of deceased employees:

- Reimbursement for medical treatment for a COVID-19 related illness for self/ family received:
  - by an employee from the employer,
  - by an individual from any person.
- A sum received by a family member on death, due to a COVID-19 related illness:
  - from the employer of the deceased employee, without any limit,
  - from any other person(s), up to an aggregate of INR 1 million.

These exemptions will apply retrospectively with effect from the financial year 2019/20 onwards and will be subject to certain conditions to be issued by the Indian Central Government.

The exemptions were expected as the Central Board of Direct Taxes in India issued a press release on 25 June 2021, which is now proposed to be legislated in the Union Budget.

These exemptions will apply retrospectively with effect from the financial year 2019/20 onwards and will be subject to certain conditions to be issued by the Indian Central Government.

New Zealand

Working from home – tax exemptions

The New Zealand Inland Revenue has released Determination EE003 – **'Payments provided to employees that work from home; Employee use of telecommunications tools and usage plan in their employment'** ('Determination'). There is no substantial change from the previous iterations that this document builds on and combines EE001, EE002, EE002A, and EE002B.

The Determination deals with certain payments to employees for working from home and for using their own telecoms/ usage plans. Notably, under the Determination's guidance and de minimis thresholds, an employer can pay up to the following amounts tax-free:

- $400 for furniture or equipment purchases and up to $400 for telecommunication equipment purchases.
- $5/week for telecommunication usage plans.
- $15/week for other working from home costs (e.g. electricity).

The Determination provides the relevant guidance in relation to when these amounts can be paid tax-free. It applies until 31 March 2023 (but may be extended).

COVID-19 wage subsidy

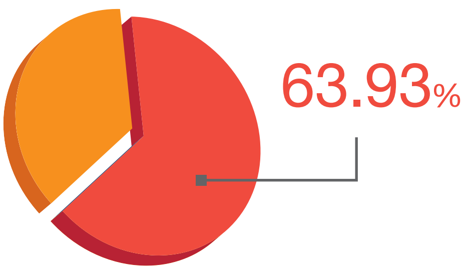
In response to the COVID-19 pandemic in New Zealand, the Government provided support to affected employers in a number of ways. This included the introduction of the Wage Subsidy scheme and other support schemes, under which the Government provides payments to employers to support them in continuing to pay employees and protect jobs affected by COVID-19.

There have been various iterations of the Wage Subsidy scheme and the other support schemes since early 2020, and each iteration provides specific requirements to be met before a business can make a claim. The most recent iteration was released on 21 February 2022 and is intended to provide support to businesses affected by Omicron and the impact of the COVID Protection FrameWork in New Zealand.

Fringe benefit tax

The marginal rate of income tax was increased to 39% for an individual's earnings over $180,000 from 1 April 2021. The introduction of the 39% income tax rate had broader implications for employers than just ensuring that high earner employees had the right amount of tax withheld. One such implication is that a new top fringe benefit tax (FBT) rate of 63.93% has been introduced. This is because the FBT rates are aligned to the PAYE rates – they take into account the PAYE that would have otherwise been paid had an employee received an equivalent amount of employment income.

FBT returns allow three options for calculating FBT. In recent years, many employers applied the 'single rate' and paid 49.25% on all taxable benefits. This is because the other calculation options are complex and often did not result in material savings. However, with the new top rate of 63.93% not representing most employees in receipt of benefits, many employers are now considering the use of the other calculation methods which result in more accurate FBT rates being applied to fringe benefits provided to employees. The trade off is that these methods involve additional compliance.



Many taxpayers have expressed frustration at the new 63.93% FBT rate

Many taxpayers have expressed frustration at the new 63.93% FBT rate as it doesn't represent the rate that would apply to most employees if they were to do a full alternate rate option. The New Zealand Inland Revenue has responded by proposing an additional calculation option. While this option is available to all employers, it is our view that (if passed into law) it will be mostly beneficial for smaller employers with very few or no employees on the top tax rate.

The new option for calculating FBT is intended to be available from the 2022 income year, meaning employers would pay FBT at:

- 49.25% for all employees with 'all-inclusive pay' under $129,681, and
- 63.93% for employees with all-inclusive pay of $129,681.

Proposed Income Insurance Scheme

A consultation is currently open in relation to a proposed New Zealand Income Insurance Scheme. This has been jointly designed by the Government, Business New Zealand and the New Zealand Council of Trade Union. The Scheme would see eligible workers who are made redundant, laid off, or who have had to stop working because of a health condition or disability, receive 80% of their usual salary for up to 7 months.

The proposal also includes up to 12 months of support for retraining. The Scheme will be funded by levies on wages and salaries, with both workers and employers paying an estimated 1.39% each. The consultation closes on 26 April 2022.

Social Security (Accident Compensation Corporation (ACC) rates)

Earners' levies paid through PAYE (or invoiced directly through ACC for self-employed people) will increase from $1.39 per $100 of earnings to $1.46 from 1 April 2022 to 31 March 2023 (GST-inclusive).

Singapore

New personal income tax rates from 2024

Currently the top marginal tax rate for a resident individual taxpayer in Singapore is 22%, for chargeable income in excess of $320,000. From 2024 (in relation to the period from 1 January 2023 to 31 December 2023), the top marginal tax rate will be increased from 22% to 24% for income in excess of $1,000,000.

New personal income tax rates for 2024 are below:

Chargeable Income (S$)	Income Tax Rate (%)
First $20,000	0.0
Next $10,000	2.0
First $30,000	-
Next $10,000	3.5
First $40,000	-
Next $40,000	7.0
First $80,000	-
Next $40,000	11.5
First $120,000	-
Next $40,000	15.0
First $160,000	-
Next $40,000	18.0
First $200,000	-
Next $40,000	19.0
First $240,000	-
Next $40,000	19.5
First $280,000	-
Next $40,000	20.0
First $320,000	-
Next $180,000	22.0
First $500,000	-
Next $500,000	23.0
First $1,000,000	-
In excess of $1,000,000	24.0

Increased Contribution of Provident Fund (CPF) rates

CPF rates will be increased for Singaporean and Permanent Resident (PR) workers aged 55 to 70 with effect from 1 January 2023. Workers in this age group will see a total increase of three to four per cent in their CPF contribution rates over two years. The new CPF rates from 1 January 2023 are below:

CPF Contribution Rates from 1 January 2023

Employee's age (in years)	Current employee contribution rate (%)	Current employer contribution rate (%)	Employee contribution rate from 1 Jan 2023 (%)	Employer contribution rate from 1 Jan 2023 (%)
55 and below	20.0	17.0	20.0	17.0
Above 55 to 60	14.0	14.0	15.0	14.5
Above 60 to 65	8.5	10.0	9.5	11.0
Above 65 to 70	6.0	8.0	7.0	8.5
Above 70	5.0	7.5	5.0	7.5

Note: The rates above are subject to capping based on the Ordinary and Additional Wage Ceilings

(Source: Singapore Budget speech 2022)

To help manage the increase in costs, due to the increase in CPF contribution rates for senior workers, employers will be provided by the Singapore Government with a one-year CPF 'Transition Offset'. This is equivalent to 50% of the increase in the employer's CPF contribution rates (subject to capping), for every Singaporean and PR worker aged 55 to 70 whom they have employed.

Thailand

Expense deductions

On 7 January 2022, Ministerial Regulation No. 379 was issued to grant individuals a personal income tax deduction for the 2022 tax year. Individual taxpayers will be allowed to deduct the actual amount spent, up to a maximum of Baht 30,000 to purchase products or services during the period from 1 January to 15 February 2022 from VAT registered businesses or to purchase books, e-books and OTOP (One Tambon One Product municipal) products from non-VAT operators.

There are certain types of expenses which do not qualify for this exemption:

- expenses for liquor or cigarettes
- petrol for vehicles (cars, motorcycles or ships)
- hard copy or electronic newspapers or magazines
- tourism and hotel expenses
- utilities such as water, electricity, telephone and internet bills
- payments for any service which can be consumed after the stated period
- insurance premiums
- donations.

Donations

A deduction for e-donations to the Office of the Permanent Secretary, Prime Minister's Office, to support protection from the spread of COVID-19, between 6 March 2021 and 5 March 2022, must be made in cash. In addition, together with other donations for charity, public benefit, state hospitals or educational institutions, these must not exceed 10% of net income (assessable income after allowances and other deductions).

A deduction of 200% for e-donations to the Equitable Education Fund from 1 January 2021 to 31 December 2023, must be made in cash. These donations together with other expenses granted an expense deduction of 200% must not exceed 10% of net income (assessable income after all allowances and deductions).

A deduction of 200% for e-donations to the Siriraj Foundation and the Chulabhorn Foundation that are made from 30 November 2021 to 31 December 2022, must be made in cash. These donations together with other expenses granted an expense deduction of 200% must not exceed 10% of net income (assessable income after all allowances and deductions).

A deduction for e-donations to the Social Enterprise Promotion Fund from 9 November 2021 to 31 December 2023, must be made in cash, which together with other donations for charity, public benefit, state hospitals or educational institutions, must not exceed 10% of net income (assessable income after allowances and other deductions).

Exchange of information

The Revenue Code Amendment Act No. 54 ('Act') was published in the Royal Gazette on 8 November 2021 and entered into force on 9 November 2021. The Act was issued to authorise the Director-General of the Revenue Department to exchange information acquired by his office, to comply with the provisions of double taxation agreements (DTA) and other international agreements. It also promotes international relations and collaboration on the prevention of fiscal evasion.

There are three types of exchange of information, as follows:

1 **Exchange of information on request**

Whereby the competent authority of a foreign government requests that the competent authority of Thailand exchanges information under the DTA or convention between the parties.

2 **Exchange of information without request**

Which includes an exchange according to Action 5, Counter Harmful Tax Practices, of the Inclusive Framework on Base Erosion and Profit Shifting, of which Thailand is a member.

3 **Automatic exchange of information**

Which would take place under an international agreement between the competent authority on the exchange of country-by-country reports that the competent authority of Thailand has entered into for the exchange of country-by-country reports.

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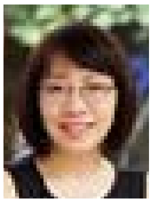

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Europe, Middle East and Africa

Tax-free profit participation for employees

On 20 January 2022 the Austrian Parliament approved tax-free profit participation for employees as part of eco-social tax reform. If the legislation is passed, the measure will apply to payments made in 2022. Many employers will be asking how they can make use of the tax benefit within existing bonus models. Further information, including in relation to the conditions that will apply, can be found here.

Company parking spaces

The extension of the parking space management scheme in Vienna means that employees now face additional costs as a result of the recognition of a benefit in kind for company parking spaces that were previously free of charge.

From 1 March 2022, the long anticipated extension of Vienna's parking space management scheme became a reality. Drivers now have to pay for parking in the city's 11th, 13th, 21st, 22nd and 23rd districts. On working days, parking in the whole of Vienna will only be permitted with a permanent parking permit ('Parkpickerl') or a valid parking coupon ('Parkschein'). Exceptions to this rule only apply in a small number of commercial and industrial areas.

Parking management schemes are currently also being introduced or extended in other municipalities, particularly those near Vienna (e.g. Schwechat, Baden).

L17 form – filing obligation for foreign employers

The L17 filing obligation for foreign employers without a wage tax permanent establishment in Austria has entered a new round. After an initial one-year transition period, with an extended filing obligation, it will again be necessary this year to identify relevant cases and carry out filing within the relevant periods.

The period for filing and submission of the wage statement for 2021 (L17 form) ended on 28 February 2022 (electronic submission, otherwise 31 January 2022). If (voluntary) payroll accounting is carried out in Austria, a separate submission of wage statements will not be necessary, as this is part of annual reporting in any case. Further information can be found here.

Cryptocurrency and taxes – an update on Austria's Ecosocial Tax Reform Act

Cryptocurrencies have significantly increased in importance as an investment option in recent years. The 'Ecosocial' Tax Reform in Austria includes changes to the tax system to take account of crypto assets.

Employees working internationally, who hold crypto assets as part of their private assets, and whose tax residency changes due to an employment contract or international assignment/posting contract, may frequently experience a significant tax impact due to the taxation of cryptocurrencies and noticeably more paperwork when preparing their tax returns. This may also apply to natural persons who work in Austria on a long-term basis or who give up their Austrian tax residency and thus become subject to tax in relation to crypto assets. Further information can be found here.

New Expat Tax Regime

The Belgian Federal Government recently introduced a new ‘Expat Tax Regime’, which applies from 1 January 2022. This new Expat Tax Regime is split into 2 separate regimes for:

- ‘Incoming taxpayers’
- ‘Incoming researchers’

In order to benefit from the incoming taxpayers regime a minimum gross salary of €75,000 per year is required. The second category requires the conducting of research activities and having a relevant degree (Master or PhD in Exact or Applied Sciences) or 10 years of relevant experience.

The relevant individual must not have:

- been a tax resident of Belgium in the 60 months prior to employment or
- lived within 150km of the Belgium border or
- been taxed as a non-resident of Belgium for professional income in Belgium.

The individuals benefiting from the new Expat Tax Regime are considered ‘resident’ taxpayers of Belgium, meaning that normal rules will apply in order to determine their residency status. They will be taxable in Belgium on their worldwide income, subject to exemptions based on bilateral tax treaties, to which the individuals will have access as tax residents of Belgium.

Individuals benefiting from the new Expat Tax Regime can receive non-taxable allowances of up to 30% of gross salary, subject to a maximum salary of €90,000 per year. In addition to these non-taxable allowances being tax-free, no Belgian social security contributions will be due.

The new Expat Tax Regime has a duration of 5 years, but may possibly be extended for a further 3 years.

For those individuals who were under a former regime on 31 December 2021, it is expected that specific transitional measures will apply.

COVID-19 and cross-border employments

Recently, the Belgian tax authorities, alongside the tax authorities in Germany, France, The Netherlands and Luxembourg decided to (further) extend the application of COVID-19 agreements until 31 March 2022.

Moreover, it is now foreseen in the agreements with France, The Netherlands and Luxembourg that (unless decided otherwise) the mutual agreements will be automatically extended (by another 3 months) until 30 June 2022. On that date the tax authorities will re-evaluate the evolution of the COVID-19 pandemic measures and if necessary, they may then decide on a new extension.

The mutual agreements allow for a ‘fiction’ in relation to employment linked to ‘home working days’ solely due to Government COVID-19 measures being put in place. If certain conditions are met and the employee chooses to apply the ‘fiction’, these forced home working days are deemed to be spent by the employee in the state where the cross border worker would have exercised the employment had the measures not been put in place.

The extension also applies to the specific ‘force majeure approach’ that allows frontier workers to work from their home without such days being considered as days performed ‘outside the Belgian frontier zone’, hence not triggering the loss of the frontier regime.

New double tax treaty Belgium – France

Belgium and France have concluded a new double tax treaty (‘DTA’). The new DTA includes some new features such as the abolition of the tax credit for non-Belgian dividends but also brings the employment article in line with OECD Model Convention.

In order to enter into force, the DTA will require ratification in both Belgium and France. It is expected to enter into force on 1 January 2023 at the earliest.

Social security

As of 1 April 2022 the maximum monthly capped social security base in Bulgaria has increased from BGN 3,000 to BGN 3,400 (approximately €205) per month, leading to an increase of the maximum social security contributions due per month by a total of BGN 131.20 (approximately €67).

Food vouchers allowance

The food vouchers allowance for 2022 has increased from BGN 80 per employee per month to BGN 200 per employee per month. Vouchers up to BGN 200 (approximately €102) are exempt from taxes and social security.

Czech Republic

Super gross-salary calculations

As of 1 January 2021, the Czech Republic is abandoning the concept of the super-gross salary as a unique way of determining the taxable base. In addition, this change is associated with the abolition of the flat tax rate, the abolition of the solidarity surcharge and the reintroduction of progressive taxation. The tax base is now determined based on gross income only.

Gross income up to CZK 1,867,728 (the threshold for 2022 approximately equals to $82,000) will be subject to a 15% rate and gross income exceeding CZK 1,867,728 will be subject to a rate of 23%.

Another change effective as of 1 January 2021 is the introduction of a separate tax base for capital income from abroad. Individuals will be able to include dividends and interest income from abroad in this separate tax base and these will be subject to a 15% tax rate. However, tax allowances or tax-deductible items will not be applicable to reduce this tax base.

The personal income tax allowance for 2022 increased to CZK 30,840.

As of 1 January 2022 the basic compensation rate for the use of private vehicles for company business purposes is increased to CZK 4.70/km.

> The personal income tax allowance for 2022 increased to
> **CZK 30,840.**

Denmark

New double tax treaty between Denmark and France

On 4 February 2022 Denmark and France signed a new double tax treaty ('DTA'). Once the new DTA comes into force, Danish pensioners residing in France will no longer be double taxed on their pension. According to the new DTA, Danish pensions paid to pensioners living in France will be taxable in Denmark. However, when calculating the Danish taxes, Denmark will take into account any tax paid on the pension in France and credit these in the payable Danish taxes.

The previous treaty between Denmark and France was terminated by Denmark in 2008, with effect from 2009, due to a dispute in relation to the taxation of pensions. Denmark is working to ensure that the new DTA can take effect from 1 January 2023.

Introduction of a deduction ceiling for high salaries

On 1 February 2022 a Bill was introduced that proposes to set a ceiling on employers' deductions for salaries and salary accessories in their taxable income. The proposal will affect gross salaries above DKKm 7.5 (2022 limit).

Under current law, companies are permitted deductions for expenses such as salaries etc. when calculating the company's taxable income. There is no ceiling on how large a deduction a company can take. All expenses incurred directly for the benefit of the company's own employees and board members such as salary, remuneration, bonus and salary accessories are covered by the right to deduct. A company's expenses for specific purchases and subscription rights may also be deductible.

It is proposed that the ceiling on deductions for salaries will cover all types of salaries that are deductible for companies and will apply at group level and will therefore take into account salaries from multiple companies under the same group. The ceiling will function in such a way that deductions are still permitted for all the types of salary for a person where the salary has a value under the ceiling in the income year in question. However, gross salary above DKKm 7.5 (2022 level) for a given employee will not be deductible in the calculation of the company's taxable income.

The proposal will, if adopted, take effect for income years beginning on or after 1 January 2023.

Reduced Activity Regime for foreign companies

In principle, the ‘Reduced Activity Regime’ allows companies to benefit from a special allowance which aims to fully or partly cover an employee’s remuneration in the event of exceptional difficulties encountered by a company (e.g. an adverse economic situation or a health crisis).

In 2020, in the context of the COVID-19 pandemic, foreign companies with no establishment in France were provided with the opportunity to benefit from the Reduced Activity Regime in relation to employees holding a French employment contract and covered by the French social security system.

To benefit from the Reduced Activity Regime for such employees, the foreign company must file a specific request with the French authorities and include specific documents such as information attesting the company’s need to benefit from the Reduced Activity Regime due to COVID-19 (i.e. due to a reduction of activity).

The obligation to hold a French bank account remains in force. This condition was difficult to comply with at the beginning of the COVID-19 pandemic as in practice French Banks were reluctant to open a bank account for a client they had not yet met. However, this is no longer a challenge for foreign companies.

Article 210 of the Finance Bill for 2022 n°2021-1900 of 30 December 2021 extends the application of Article 9 of the ordinance n° 2020-346 of 27 March 2020 until 31 December 31 2022 (unless a decree sets an earlier date) which enables the use of the Reduced Activity Regime for companies which are in principle excluded from it, and in particular for foreign companies without an establishment in France, for employees working on French soil.

Brexit – tax issues

On 14 January 2022 the French tax authorities published a Q&A letter for individuals which aimed to answer some queries on tax issues in relation to Brexit. In this letter, the French tax authorities confirmed that capital income received, as from 1 January 2021, by British tax residents should remain exempt from CSG and CRDS under certain conditions, based on European Union agreements regarding Brexit which were signed on 12 November 2019 and 30 December 2020.

As a consequence, capital income will not be subject to CSG and CRDS (special social taxes which would otherwise apply at a rate of 9.7%) but they will remain subject to a solidarity contribution at a rate of 7.5% (as per provisions in Article 235 of the FTC).

Where taxpayers have incorrectly paid these taxes, it is possible to lodge a tax refund claim with the French tax authorities, within the relevant deadline.

Germany

Vouchers and cash cards

From 1 January 2022 vouchers and cash cards will only be considered to be non-cash benefits if they exclusively entitle the recipient (i.e. the employee) to receive goods and services. They also need to fulfill certain other criteria to qualify for the exemption.

Benefits in kind

Monthly tax-free amount

The monthly tax-free amount for benefits in kind ('BIK') increased from €44 to €50 from 1 January 2022.

The German Federal Fiscal Court has judged that the BIK incurred at a company event per attendee is to be valued by the average cost incurred by the company for the event, divided by the number of employees who attend the event. The costs incurred due to a last minute cancellation of attendance are to be included in the valuation. This decision is currently under consideration by the German Constitutional Court.

Assets

The yearly tax-free amount for BIKs through free or discounted assets provided to an employee increased from €360 to €1,440 on 1 July 2021. In order to qualify for the exemption it remains a requirement that the asset must be offered to all employees who have been in an employment relationship with the employer for one year or longer without interruption, at the time of the announcement of the offer of the asset.

Legislation has also been introduced, providing for the ability to defer the tax charge on employment income, in relation to the provision of free or discounted assets, where certain conditions are met, including:

- the assets are granted in addition to wages owed in any event
- the employee's consent to the deferral of the taxation date has been obtained
- the employer's enterprise does not exceed, or did not exceed in the previous calendar year, the thresholds set out in Article 2 (1) of the Annex to the Commission Recommendation of 6 May 2003 which outlines the definition of micro, small and medium-sized enterprises, and
- the employer's enterprise was established no more than 12 years ago.

Taxation as employment income (as a one-off payment) is deferred to the earliest of the following events:

- transfer of the asset by the employee,
- 12 years after the transfer of the asset to the employee, or
- upon termination of employment.

The newly introduced legislation applies to assets transferred after 30 June 2021.

Taxation of foreign managing directors

We are aware of an increase in discussions with the German tax authorities regarding managing directors, board members and, in some cases, authorised signatories of German companies who reside abroad and work for and in the interest of, a German legal entity.

Depending on the relevant double tax treaty ('DTA'), remuneration for foreign managing directors, board members and authorised signatories may be subject to wage and income tax in Germany. This may apply even where the relevant individual has had no working days in Germany.

Where this is the case, the German tax authorities will assess, in particular, whether the employer is legally obliged to withhold respective wage tax amounts for the above-mentioned business activity in Germany and if this obligation is historical (for up to 10 years). This topic is typically raised during wage tax audits. Furthermore, it has occurred in certain cases that criminal pre-investigations were initiated by the responsible authorities.

We recommend checking the respective DTA in question to determine, if necessary, the correct wage tax assessment base, and also giving consideration to the transfer pricing implications. In addition, existing processes should be reviewed and adjusted in order to avoid the risk of unintended wage tax withholding obligations and a future wage tax liability.

Draft Tax Reduction Act 2022

The Federal Ministry of Finance has published a draft Bill for a Tax Reduction Act 2022. The tax changes which are planned include the following:

- an increase to the lump-sum deductible costs for employment income by €200 to €1,200,
- an increase to the basic tax-free amount from €9,984 to €10,347, and
- an increase to the mileage allowance to 38 Cent/km from 21km, for trips between home and the first place of work/collecting point/access to a wide-ranging region of work and for trips between the first place of work and the family home in case of double-housing.

It is expected that these changes will be implemented retrospectively from 1 January 2022 and any wage tax withholding for the past months of 2022 will be retrospectively corrected.

Payroll requirements/ compensation due to teleworking

In relation to remote working (i.e. where an employee works remotely, either from their home or from another place, but within the country of their employment), Greek employers are obliged to reimburse the employee with 'teleworking' compensation, which is not subject to income tax as it qualifies as a tax-free amount.

The statutory minimum amount assumes 22 days of remote working per month, and is as follows:

- €13 for the use of the home workplace,
- €10 for the cost of telecommunications (this amount is not required to be paid where the employer covers the relevant costs directly through a separate contract with the internet and telephone provider), and
- €5 for the maintenance of teleworking equipment (this amount is also not required to be paid where the relevant equipment is provided by the employer).

The above reimbursements should be paid by the employer into the payroll bank account of the employee, using a distinctive payment description of 'payment of telework costs'.

Where teleworking is less than 22 days per month, and on the remaining of the days the employee performs their services at the premises of their employer or due to any other reason (e.g. annual leave, strikes, etc.), the employer is required to calculate and reimburse the employee on a pro-rata basis.

If an employer opts to reimburse an employee by paying amounts in excess of that outlined above, the excess is subject to income tax as regular employment income, unless the employee can justify those costs by presenting supporting documentation to the employer that their actual expenses were higher than the statutory ones.

Irish Revenue compliance interventions

The Irish Revenue has formally announced its new Compliance Intervention Framework, which is effective from 1 May 2022. It reflects the Revenue's graduated response to risk and non-compliance, while providing taxpayers with a mechanism and incentive to voluntarily regularise any tax underpayments.

There are some significant changes as part of the updated framework which presents real risks for organisations in terms of penalties and publication. For example, the framework includes the introduction of a new desk-based intervention, termed a 'Risk Review' which replaces an 'Aspect Query'. Where a taxpayer is notified of a Risk Review, they will no longer be able to make an unprompted disclosure.

Employment taxes remain a key focus of Revenue interventions. As such, it is timely to consider undertaking a risk assessment of employment tax compliance alongside the controls in place to manage risk.

Electric cars

The Irish Revenue has extended the exemption from a benefit in kind ('BIK') charge in relation to employer provided electric vehicles until December 2022. For any electric vehicles provided to employees after 10 October 2018, the employee's private use of the vehicle will be fully exempt from a BIK charge, provided the Original Market Value ('OMV') of the vehicle does not exceed €50,000. Electric vehicles with an OMV in excess of €50,000 will trigger a BIK charge, but only on the excess over €50,000.

Employee share plans – Irish Revenue guidance

The Irish Revenue is placing an increased focus on employer-submitted employee share plan returns. This is aimed at cross checking compliance by individuals in their personal income tax returns but also the related employer payroll submissions.

A number of companies have been contacted by the Revenue to advise that more detailed reviews are imminent. Given this approach, it is timely for companies to review and enhance their communications to share plan participants to highlight the importance of compliance in this area.

Furthermore, companies should consider their own internal review of the data processed through their payroll(s) before the Revenue conducts this exercise. Any anomalies that arise should be resolved in advance of any Revenue engagement to limit any potential exposure to interest and penalties.

The new Equal Opportunity Code

On 2 December 2021 Law no.162/2021, the 'Code of equal opportunities between men and women' ('Code'), entered into force. The Code contains provisions on equal opportunities between men and women in the workplace, with the aim of further strengthening the safeguards already provided for female workers and achieving more effective gender equality.

From 2022, all companies with a workforce of more than 50 employees will be required to send a periodic report, via an electronic submission of a new template that will be published on the Ministry of Labor's website. Once the report is completed, it must also be sent to the company's trade union representatives.

Companies who complete the report can also apply for a 'Gender Equality Certificate' provided they have met certain targets in terms of salaries, job opportunities, management of gender differences and maternity safeguards.

Employers who achieve the Gender Equality Certificate are entitled to, amongst other things, an exemption from the payment of social security contributions up to maximum of 1% of the social contributions due (in any case not exceeding €50,000 per year).

The Code has also introduced a new pecuniary administrative sanction (ranging from €1,000 to €5,000) which may apply in a variety of circumstances, including if any audits/inspections by the relevant authorities find inaccurate reports.

Minimum wage and tax thresholds/contributions

From 1 January 2022 the statutory minimum monthly salary has been increased to €730 and the minimum hourly wage has been increased to €4.47. The tax free amount of income has been increased to a maximum of €460 per month.

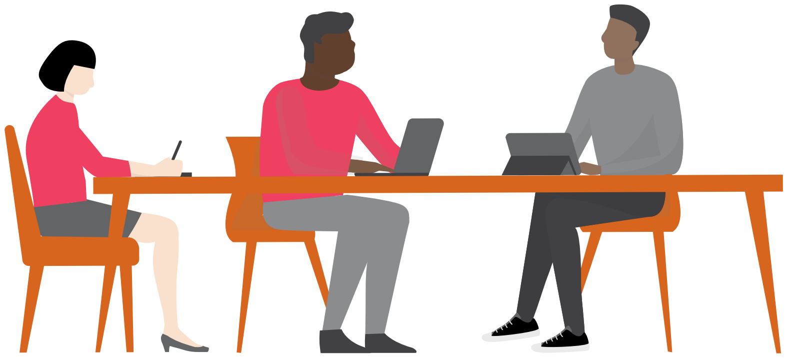
Also, from 1 January 2022, the higher personal income tax rate of 32% for the income exceeding the previous threshold of €81,162 has been increased to €90,246. Employment income exceeding the €90,246 threshold is subject to a lower rate of social security contributions ('SSC') at 6.98%. Employer's SSC of 1.77% (standard rate) is not capped.

The rate of contributions to the 2nd pillar pension funds for individuals who have chosen to accumulate gradually, has also increased, from 1 January 2022, from 2.4% up to 2.7%. As with every year on 1 January, employees under the age of 40 who did not participate in the 2nd pillar pension funds, will be automatically enrolled into the pension accumulation system with the possibility to opt out. In 2022 the accumulation will include not only those residents who have never accumulated a pension before, but also those who refused to participate in the accumulation of pensions in 2019 (irrespective of age).

As of 2022 tax relief relating to the deduction from the taxable income for the purpose of the personal income tax calculation for repair and finishing of buildings, repair of cars and babysitting has been revoked.

From 1 January 2022 salaries and other employment-related benefits, daily allowances and reimbursement of business expenses must be paid via bank transfer to the employee's bank account. Payments in cash are not allowed, except for seafarers.

As of 1 February 2022 a new interest rate of 0.08% shall be applied if there is a late payment of salary or other employment-related benefits as a result of the fault of the employer.



Malta

Voluntary Occupational Pension Schemes ('VOPS')

The VOPS rules were recently amended to further enhance fiscal measures already in place to incentivise the second pillar pension system in Malta. The following changes are effective from the calendar year 2021:

- The maximum annual tax credit on contributions to a qualifying scheme paid by employers for the benefit of employees was increased from €500 to €750 per employee. The tax credit is calculated at 25% of the contributions paid. This means that the maximum annual contributions in respect of which the tax credit is triggered was increased from €2,000 to €3,000 per employee.
- Similarly, the maximum annual tax credit for employees who voluntarily also make contributions into the employer's scheme increased from €500 to €750.

Further information may be found here.

The Highly Qualified Persons ('HQP') Rules

Expatriates in receipt of income payable under a 'qualifying contract of employment' in respect of activities carried out in Malta, and who occupy an 'eligible office' as approved by the competent authority, may opt to submit an application to be issued with a determination to be subject to income tax on such employment income at a flat rate of 15%.

Under recently updated HQP Rules, determinations may be issued by the competent authority until 31 December 2025 (as opposed to 31 December 2020). Any such determination must refer to any employment in respect of which the benefit provided by these HQP Rules commences by 31 December 2026 (as opposed to 31 December 2021) and shall cease to apply by 31 December 2030 (as opposed to 31 December 2025).

Furthermore, the following changes were introduced:

- **Extension of the qualifying period** – any person eligible to fall under the HQP Rules (irrespective of whether they have opted to benefit from the provisions), upon submitting an application, shall be eligible for two further extensions (as opposed to a one-time extension) for the qualifying period (five years with respect to EEA and Swiss nationals and four years with respect to third-country nationals). Such extensions are subject to the continued adherence to the other provisions of the HQP Rules and provided that the maximum qualifying period shall not exceed a consecutive period of fifteen or twelve years, as the case may be.

- **Removal of the 1,460 days criteria for third country nationals** – the rights acquired under these HQP Rules, by eligible persons who are third-country nationals, shall no longer be withdrawn if such individual physically stays in Malta, in total, for more than 1,460 days.

Further details are available here.

The Qualifying Employment in Aviation (Personal Tax) Rules ('QEA Rules')

The QEA Rules were introduced with the aim of attracting expatriates in Malta to hold an eligible office in the aviation sector. By virtue of the QEA Rules, eligible individuals may benefit from a beneficial tax rate of 15% on employment income from such activities, subject to receiving an annual income of at least €45,000 and subject to the satisfaction of certain other conditions.

The QEA Rules are applicable for five consecutive years from when one is first liable to income tax in Malta. From 8 March 2022, beneficiaries may now apply for two further extensions (as opposed to a one-time extension) of the qualifying period, subject to the continued adherence to the other provisions of the QEA Rules. The maximum qualifying period shall not exceed a consecutive period of fifteen years (as opposed to ten years).

Taxation of income from an employment contract that requires work mainly outside Malta

Subject to the satisfaction of a number of conditions, an individual may opt to be taxed on employment income derived through a contract of employment requiring the performance of work or duties mainly outside Malta at 15%. Such income will constitute the first part of the individual's total income.

With effect from 1 January 2022, additional restrictions to the availability of the optional 15% tax rate were introduced and include that:

- the employment contract must be for a period of at least 12 months; or last at least 12 months; and
- the individual should not be present in Malta for a period or periods that, in total, amount to more than 30 days, excluding any periods that the individual was in Malta on vacation; due to sickness; or any period preceding the commencement or the termination of the contract.

Further information can be found here.

Qualifying overtime income

Individuals may opt to be taxed on qualifying overtime income at the reduced rate of 15%, rather than the progressive rates of tax. Qualifying overtime income refers to overtime performed by a full-time employee who does not occupy a managerial post (as defined) and whose basic weekly wage does not exceed €375 per week.

With effect from 1 January 2022, the maximum qualifying overtime emoluments cannot be more than €10,000 with the relative maximum 15% tax on overtime being €1,500.

Part-time work

From 1 January 2022, subject to the satisfaction of a number of conditions, income derived from part-time work may qualify for a reduced tax rate of 10% (instead of 15%). Such reduced tax rate is capped to €10,000 per annum for part-time employment (and €12,000 per annum for part-time self-employment). Taxpayers may opt not to avail of this tax rate, in which case tax on such income should be charged at normal rates.

Income from artistic activity

As from 1 January 2022, the gross amount of income derived from a full-time or part-time artistic activity is subject to tax at the rate of 7.5%. This rate is optional, and the individual may opt to be taxed at the progressive rates of tax. The tax charged is a final tax and no set-off or refund may be claimed in relation to the tax charged. Furthermore, for the income to qualify as income derived from an artistic activity, it has to be certified by the Arts Council of Malta.

Netherlands

Tax free lump sum

For 2022, employers are allowed to spend a maximum of 1.7% of the first €400,000 of total gross wages as a tax-free lump sum (for the remainder of the gross wages a 1.18% budget applies) on tax-free allowances, benefits in kind and provisions for the employee.

Working from home allowance

Due to COVID-19 many employees are still working from home and/or many employees and employers are making longer term arrangements for hybrid working. As of 1 January 2022, a tax-exempt working from home allowance can be paid for up to a maximum amount of €2 per day.

Occupational health and safety provisions

The Dutch Tax Authorities ('DTA') recently announced that it wished to clarify the specific exemption for occupational health and safety provisions. Previously, it was targeted at provisions that resulted directly from the working conditions policy. However, from 1 January 2022, the specific exemption applies only to provisions that are directly related to the employer's obligations under the Working Conditions Act. For example, the DTA has clarified that massage chairs and health checks are examples of benefits that will no longer fall under this working conditions exemption in the future.

Extraterritorial costs

A number of aspects have changed with regard to extraterritorial costs based on the 2021 Wage Taxes Handbook. Firstly, the costs of the application for the 30% ruling and the application for an A1 statement/Certificate of Coverage (CoC) are now defined as extraterritorial costs. Secondly, the specific exemption for applying for, or converting a work permit, will lapse. Thirdly, a maximum amount may no longer be used for the costs of preparing the income tax return. Finally, the DTA emphasises that the costs of tax advice for an employee are regarded as wages.

New notification obligation

Under previous rules the DTA may have asked an organisation to provide information about payments made to third parties (e.g. persons who work for the organisation outside of an employment relationship). This was previously done via the 'IB-47 form', which would request the citizen service number (in Dutch: 'BSN' or 'burgerservicenummer'). However, due to a determination that there was a lack of legal basis for requesting the BSN in this way, as of 1 January 2022 a new disclosure obligation applies, which requires the organisation to proactively provide certain information to the DTA.

Norway

Employee purchase of discounted shares

The Norwegian Government has introduced a new tax regime in relation to the purchase of shares at a discount, by an employee in the employing company. Previously employees could, subject to certain limits, enjoy tax exemptions in relation to the discounted purchase.

The tax free discount could amount to up to 25% of the market value of the shares, and the maximum tax free benefit where such a discount was granted was NOK 7,500 per year. However, from 1 January 2022 the tax exemptions were abolished and the benefit from buying shares at a discount is now taxable.

The new rules apply regardless of whether the shares acquired are existing shares or by subscribing for new shares. As a general rule the taxable benefit is the difference between the market price of the shares at the time of acquisition and the price paid by the employee for the shares.

According to the Norwegian Government, the changes were made because the previous rules benefitted high-income groups over other groups. This is notwithstanding that to qualify for the tax-free discount, the offer to acquire shares had to be made to all employees of the company (and in some cases, the company could also set further conditions for the acquisition of the shares).

There are still some opportunities for a tax beneficial acquisition of shares in an employer company, but this will require greater effort and analysis by the company.

New tax regime for employee options in start-ups

From 1 January 2022, a new tax regime for employee options in start-ups (and certain other) companies was launched. The rules are intended to make it easier and more attractive to establish an incentive scheme in start-up companies, and to help improve the competitiveness of such companies.

Under the new tax regime, where the company qualifies, any tax on employee options will be paid only when the shares are sold, contrary to the general rule for share options, which gives rise to taxable income at the time of option exercise. Certain qualification conditions also apply for employees.

The new regime is a continuation of special rules for ‘start-up’ companies which commenced in 2018, but the new rules have also been expanded to allow certain larger companies to qualify, being companies in a growth phase.

Under the new regime neither the grant nor the exercise of a share option will trigger a tax charge. A liability to tax only arises when the shares are sold. In addition, importantly, any profits will now be taxed as capital income and not as payroll tax and employer’s National Insurance contribution as was the case under the previous regime. As a result, the new regime is significantly more tax beneficial for both employees and employers.

Differentiated employer’s National Insurance contributions

From 1 January 2022, the Norwegian Government launched new rules regarding differentiated employer National Insurance contributions. Differentiated employer’s contributions refers to the fact that the tax rate for employer’s National Insurance contributions may vary regionally.

The main features of the previous rules have been retained, but with some changes. For example, minor adjustments have been made to the tax rates for some municipalities. Adjustments have also been made for activities, which due to their nature or the organisation, can or must be carried out in places other than where the company is registered. Examples of activities include transport activities and consultancy activities. Other activities that are not required to be performed at a specific location – so-called ‘remote work’ or non-local activities – are also included. Working from home is an example of remote work.

According to the new rules, if the work is done in a zone with a lower tax rate than where the company is registered, and the work can/must be carried out in that zone, the reduced tax rate will only apply to local activities. If non-local activities, such as working from home, take place in a zone with a lower tax rate than the rate where the company is registered, the rate in the zone in which the company is registered will apply.

Certain changes have also been made with regard to sector-excluded industries, where some industries are now covered by the rules with differentiated tax rates.

Poland

Income tax and social security reform

As of January 2022 several changes to personal income tax (PIT) and social security rules were introduced including in relation to:

- an increase to the tax-free amount and tax threshold;
- the abolition of the ability to deduct the cost of a health contribution from income tax;
- the introduction of an obligatory health contribution on the remuneration for performing a function e.g. a company's board member;
- additional sanctions for employers who illegally hire employees or conceal the correct amount of income from work;
- the taxation rules for private use of company cars; and
- PIT relief for individuals returning to Poland following emigration.

Proposed withholding reform

In March 2022 the Polish Government introduced a Bill to implement significant changes to employment tax withholding rules (previously introduced by a Resolution dated 7 January 2022). The Bill requires the remitters of taxes (i.e. the employer) to compare monthly tax withholding based on 2022 and 2021 rules and apply the rules that are more beneficial for the employee (i.e. if a lower amount of tax would have been withheld under the 2021 rules then that is the amount to be withheld in 2022). The comparison is to be made each month. However, in the final (annual) return only the 2022 rules should be applied.

Portugal

Minimum Monthly Wage

The Portuguese Minimum Monthly Wage for 2022 has been increased to €705,00 (€665,00 in 2021).

Home office expenses

From 1 January 2022, additional expenses incurred by an employee due to remote working are in general the responsibility of the employer.

These additional expenses are those which are proven to be borne by the employee as a result of the remote working, relating to the acquisition of goods and/or services that the employee did not have before the conclusion of the remote working agreement, as well as those relating to an increase in energy and internet related expenses, determined by a comparison with the employee's expenses in the same month of the last year prior to the application of the agreement. The eligible expenses should be foreseen in the remote work agreement.

Where the expenses are directly incurred by the employee, the refund, by the employer, of the additional expenses borne due to remote working do not qualify as employment income liable to personal income taxes, being considered a company/employer cost.

COVID-19 measures

Alongside other countries in lockdown, Spain was under a general lockdown from 14 March 2020 to 30 May 2020. This lockdown had an impact on the Spanish personal income tax (PIT) law, specifically:

Tax Residency position

The Spanish General Directorate of Taxes ('DGT') initially determined that taxpayers trapped in Spain due to COVID-19 restrictions (e.g. lockdowns, closing of borders etc.), remained subject to the '183-day' rule for determining tax residency. This remained in place, even in extreme circumstances e.g. where a taxpayer could not leave/abandon Spain as per the strict restrictions. This approach was not in line with the OECD's recommendations. However, on a second binding regulation issued by the DGT, the OECD approach was accepted and as a result there are other circumstances that should be considered apart from the '183-day' rule of presence in Spain (e.g. center of vital interests, home availability, previous tax residency, etc.) to conclude the tax residency position in these scenarios.

Company cars

The DGT has confirmed that, notwithstanding the lack of use of company cars during lockdown, they remain considered a benefit in kind.

Equipment needed for telework

In accordance with DGT criteria, the delivery of equipment (e.g. mobile phones, laptops, chairs etc.) entirely for work (and/or flexible working) purposes is not considered a benefit in kind. However, any cash payment from an employer to an employee due to telework (rather than providing specific equipment needed for the work) is subject to the usual taxation and withholding process.

Meal vouchers

Due to COVID-19 restrictions and flexible working, the tax exemption on personal income tax for meal vouchers applies not only for physical attendance at restaurants but also to any home meal delivery from 1 January 2020.

Work performed abroad

There has been a period of uncertainty with regard to the scope of a tax exemption for work performed abroad. More specifically, in relation to whether it applies only to regular employees under a labour relationship, or more broadly to Directors (for e.g. attending Board meetings in a foreign country, or for developing their regular duties abroad). The tax exemption is up to a gross €60,100 (subject to certain conditions).

Initially the DGT established that the tax exemption for work performed abroad was not available to Directors, and the Spanish Supreme Court ('Tribunal Supremo') agreed. Moreover, although not having the force of law, this Spanish Supreme Court Judgement set out clear criteria that must be followed by the lower Courts and the Tax Administration.

Notwithstanding the above, the Spanish High Court ('Audiencia Nacional') has interpreted that Directors are entitled to the exemption and the Spanish Supreme Court has therefore recently agreed to re-examine the issue.

Proposed changes to PIT Law

New proposed legislation, currently being debated in the Spanish Parliament, could result in some significant changes to PIT Law (in relation to employment income), as follows:

Company shares and share options

It is currently proposed that the existing €12,000 annual income tax exemption for employment income on the delivery of a company's shares (via e.g. the exercise of an employee share option) under an all-employee share plan (where certain conditions are met), is to be increased to €50,000 for the delivery of shares in 'emerging companies' ('emerging companies' is yet to be defined) to its employees.

The proposed legislation also provides that the 'taxable event' will move from the moment the shares are 'delivered' to the employee (e.g. on option exercise), to the earlier of either the company becoming publicly listed (whether on the Spanish stock market or a foreign stock market), or to the time the shares are disposed of by the employee or, at the latest, 10 years after the shares are acquired by the employee.

Extension of Special Tax Regime for Inbounds

Individuals coming to work in Spain may be taxed as non-resident under the Special Tax Regime for Inbounds if certain conditions are met. One such condition currently is that the individual must have been a non-resident of Spain in the 10 years prior to arrival. It is proposed that this period be reduced to just 5 years.

Teleworking is also to become a qualifying reason for arrival to Spain, (currently the reasons are limited to a labour contract, an assignment letter, or being appointed as a Director in Spain).

Finally, a legally married spouse and children under 25 years of age will also become entitled to the Special Tax Regime if certain requirements are met.

Carried interest

Carried interest obtained by fund managers of mutual funds will be treated as employment income (general tax base up to 47%), but subject to a 50% tax reduction where certain requirements are met (including there being a guaranteed minimum return for other investors and a 5-year holding period for the shares or rights obtained).

As noted above, this proposed legislation is currently being debated in the Spanish Parliament.

Pension plan contributions

The 2022 General State Budget has modified the limits on annual pension plan contributions for 2022.

The annual maximum pension plan contribution from an individual and their employer (company) cannot exceed €1,500. This limit can be increased up to an annual additional €8,500 for additional company contributions or for contributions made by the individual on the same amount as the company contribution. Company contributions made following an individual's choice will be treated as the individual's contributions.

The PIT tax reduction on pension plan contributions will consist of the lower amount of:

- 30% from the net employment and self-employment income received by the individual in the tax year; and
- annual amount of €1,500. The referred limit increases up to annual €8,500 if the additional amounts come from company contributions or from the individual's contributions to the same pension plan on the same amount or on a lower amount than the company contribution.

Social security contributions

The annual capped maximum contribution social security base for 2022 has been increased from a capped monthly base of €4,070.10 to €4,139.40. The minimum monthly contribution base has also been increased for 2022 from €1,050.00 to €1,125.90.

The regular employee social security contributions rate is 6.35%. The regular company contribution on the monthly capped base is 29.9%.

South Africa

Budget update

During the Budget Speech on 23 February 2022, the Minister of Finance announced that with effect from 1 March 2022, the maximum tax rate of 45% applies to taxable income in excess of ZAR 1,731,600 (up from ZAR 1,656,600) while the lowest rate of 18% applies to taxable income up to ZAR 226,000 (up from ZAR 216,200) with similar adjustments to the brackets in between. There will also be a 4.5% (approximate) increase in the primary, secondary and tertiary rebates. The tax-free threshold has therefore now increased from ZAR 87,300 to ZAR 91,250 for taxpayers under the age of 65.

With effect from 1 March 2022, the medical tax credit will also increase from ZAR 332 to ZAR 347 per month for each of the first 2 dependents and from ZAR 224 to ZAR 234 per month for every subsequent dependent.

The subsistence allowance amounts have increased from 1 March 2022 for meals and incidentals from ZAR 452 to ZAR 493 per day and the incidental cost (only) amount has increased from ZAR 139 to ZAR 152 per day whilst an employee is travelling for business purposes, away from their usual place of residence within the Republic. These amounts are generally not subject to tax as they are meant to compensate an employee for incurring expenditure while travelling for business purposes.

The amount employers can claim in respect of the Employment Tax Incentive for qualifying employees will increase from a maximum of ZAR 1,000 to a maximum of ZAR 1,500 per month in the first 12 months and from ZAR 500 to a maximum of ZAR 750 in the second 12 months of eligibility with effect from 1 March 2022.

Although revised tables have not yet been published, it is expected that the table for calculating travel allowances payable to employees for using their personals vehicles to travel for business purposes will be updated, along with the tax-free reimbursive amount that employers can pay employees for business travel to come into effect from 1 March 2022.

Business travel

The tax-free rate at which employers can reimburse employees for actual business kilometers travelled in the employee's personal vehicle, in cases where they are not also in receipt of any other type of travel assistance from the employer (e.g. a fixed monthly travel allowance or a fuel card), increased to ZAR4.18/km with effect from 1 March 2022.

Sweden

Swedish F-tax registration

From 1 January 2021, there has been an additional focus on tax registration in Sweden, due to the introduction of 'F-tax'. If a Swedish company makes payments to a foreign company, concerning work performed in Sweden, it is obligated to either:

- verify that the foreign company is registered for Swedish F-tax; or
- withhold tax of 30% of the total amount invoiced and report it to the Swedish Tax Agency.

The new rules applied as from 1 January 2021, in relation to payments for work performed after 31 December 2020, where the invoice is paid after that date.

The economic employer concept

Sweden introduced a concept of an 'economic employer' from 1 January 2021. The changes state that non-resident employees working in Sweden, could be taxed in Sweden if the employees are 'leased out' (i.e. they work for the benefit of a Swedish company) or for a company with a permanent establishment in Sweden. This will apply regardless of whether the employee stays in Sweden for more or less than 183 days during a twelve-month period.

There is an exemption if thresholds regarding the number of working days are met, which implies that in those circumstances the tax liability does not therefore arise. Employer obligations will occur for foreign companies who provide employees to work in Sweden. The foreign employer will be required to withhold and report Swedish tax on salaries for work performed in Sweden, and this obligation cannot be transferred to the Swedish company.

Switzerland

Withholding taxes

Various changes entered into force on 1 January 2021 in relation to the Withholding Tax Act. Important information updates for employers on changes concerning corrections and retroactive ordinary assessment from the tax year 2021 onward include:

- the deadline for payroll corrections by employers is 31 March of the subsequent year; and
- in accordance with FTA circular no. 45, all persons subject to withholding tax (irrespective of residence status) may request a re-calculation of withholding tax by 31 March of the tax year following the date on which the tax payment is due (forfeiture period).

It should be noted that the practical implementation of the re-calculation may vary from canton to canton.

In addition to the above, Swiss residents liable to withholding tax may request retroactive ordinary assessment by 31 March of the following year. The request may not be revoked, and this status remains in place for following years (provided the person is subject to withholding tax and is resident in Switzerland for tax purposes).

Taxable quasi-residents (quasi-residents are resident abroad but generate 90% of their worldwide gross income in Switzerland) may also request retroactive ordinary assessment. A new request needs to be submitted every year.

Salary certificate – guidelines

An updated version of the Guidelines for completing 2022 Salary Certificates was published in November 2021. The two main changes relate to the private use of company cars and expenses relating to home offices.

From 1 January 2022, the gross-up for private use of a company car is 0.9% (previously 0.8%) of the purchase price (excluding VAT) and at least CHF 150 per month. The rate of 0.9% is also exclusive of VAT and includes all optional features. This percentage is a flat rate that already includes commuting costs. Box F must be ticked in any case, but the percentage of field service is no longer needed to be declared in section 15 of the salary certificate.

There are no changes in the lump sum deductions for professional expenses or the valuation of payments in kind with regards to direct federal tax in the tax year 2022.

Cross-border commuters: COVID-19 special rules

During the COVID-19 pandemic, Switzerland signed memoranda of understanding with the neighboring countries of Germany, France, the Principality of Liechtenstein and Italy, in relation to the taxation rights of the countries concerned (treatment of non-return days, etc.). The expiry dates of these agreements are as follows:

- **Germany** – mutually terminated and will expire on 30 June 2022.
- **France** – will remain in force until at least 30 June 2022.
- **Italy** – the authorities will notify Switzerland in advance if the agreement is to be terminated (the agreement may be terminated at the end of a month with a minimum of one week's notice).
- **Principality of Liechtenstein** – mutually terminated and expired on 31 March 2022.

In principle, employees who worked or are working from home solely due to pandemic-related reasons, will be taxed as if they had attended their usual place of work on these work days. However, caution is required due to the easing of pandemic-related restrictions and we advise analysing each situation in detail.

There is no memorandum of understanding with other countries, particularly Austria. Therefore, employers must exclude foreign working days from taxation in accordance with the OECD Model Tax Convention. Tax rules may differ from the principles of social security liability and need to be evaluated separately, on a case-by-case basis.

The latest information on the impact of COVID-19 on social security in an international context is published by the Federal Social Insurance Office (FSIO) on its website. In general, the measures to fight COVID-19 do not affect the social security liability of persons to whom the Agreement on the Free Movement of Persons or the EFTA Convention apply and for persons covered by a bilateral social security agreement. Having said this, there is no Europe-wide deadline for the flexible application of the liability rules. The situation should be reviewed on a case-by-case basis for persons who are not covered by a social security agreement.

If you employ cross-border commuters from Germany, the Principality of Liechtenstein, Italy, France, and Austria, we recommend monitoring the situation in relation to any employees concerned and examine any changes in the guidelines on home-office work, particularly if you are considering a continuation or extension of home-office work arrangements after COVID-19 restrictions are lifted.

Turkey

Reporting employment income

From 2022, the threshold for reporting employment income on a Turkish individual tax return has been increased to TRY 880,000. Individuals with employment income from a single employer that does not exceed this amount will not have to report their employment income and the taxes withheld by the employer will be final.

Amnesty program

The existing amnesty program (cash repatriation regime) has been extended until 30 June 2022. Individuals who have movable assets in offshore accounts (including that derived through e.g. employer stock options/restricted stock unit programs) can benefit from this regime and eliminate the tax liability that may arise from these assets. There are a number of conditions which apply, including that these assets are declared and transferred to a Turkish bank and/or Turkish financial institution.

United Kingdom

Health and Social Care Levy

In October 2021 the UK Government enacted legislation to fund an increase in health and social care costs, through the introduction of a new tax called the Health and Social Care Levy ('Levy'). The key details include as follows:

- From 6 April 2022 there is a temporary 1.25% increase in the rates of various classes of UK social security contributions (NIC) (including for both employees and employers). For large employers this means that the social taxes that are payable on wages will increase from 14.3% to 15.55% (both figures including the UK's Apprenticeship Levy).
- Employers are being encouraged by the UK tax authorities (HMRC) to include an explicit message about the reason for the increase in NIC on employee payslips (although this is not mandatory for the tax year 2022/23).
- From 6 April 2023, the temporary NIC rise will be replaced by the standalone Levy. The Levy is currently legislated for at 1.25% and is chargeable wherever a liability to 'qualifying' NIC arises (or would arise but for State Pension Age provisions).
- The principal difference between the Levy for the tax year 2023/2024 onwards and the tax year 2022/23 regime is that employees (and the self-employed) who are above State Pension Age (this age depends on when the individual was born) will need to pay the Levy.
- There will be a requirement for employers to identify the Levy separately on employee payslips.

It is also worth noting, however, on 23 March 2022 the UK Government announced that it would be raising the threshold at which employees start to pay NIC (and accordingly the Levy) from £9,880 to £12,570 per year, which aligns the employee NIC threshold with that for income tax. Although the UK's tax year runs from April each year, the change will not take effect until July 2022.

There are a number of steps for employers to take to understand the implications of the increase in NIC/the introduction of the Levy. For example:

- Do there need to be changes to employer documentation, including employee share plan rules, indemnities, employee communications etc. to reflect the Levy?
- Are existing arrangements sufficient to ensure increased future costs on deferred compensation and long term incentives are being accrued for and can be funded?
- What impact will the increase have on the costs of the contingent workforce?
- Are there forthcoming transactions or changes in pay policy that could be impacted by the NIC increase/the Levy?

Review of furlough claims

Alongside many other countries, in response to the COVID-19 pandemic, the UK Government introduced a furlough scheme for employers/employees – the 'Coronavirus Job RetentionScheme' (CJRS). The CJRS closed to new claims on 30 September 2021. HMRC's attention has now turned to reviewing the claims that were made over the lifetime of the CJRS.

Whilst HMRC's review activity is primarily focused on fraud and deliberate non-compliance, it does expect businesses to take reasonable care in ensuring that their CJRS claims were accurate and to correct any errors that they find. HMRC expects that this reasonable care would include following HMRC's guidance (of which there were many different versions over the lifetime of CJRS) and to make any necessary adjustments based on the revisions made to their guidance.

HMRC is increasingly focusing on compliance and enforcement and businesses should be taking the time now to review the claims made and ensure that any over claims are repaid, any underpayments to employees are made good and that the amounts submitted on corporate tax returns are correct. This is particularly important in light of the deadlines that are applicable to make corrections.

Holiday pay

In February 2022 an important UK case concerning the payment for annual leave under the Working Time Regulations was decided. The UK Courts held that where a worker has not been able to take paid leave (in this case, because the right was disputed and the employer refused to pay for it), they will be entitled to payment in respect of the untaken and/or unpaid leave, up until the termination of the worker's contract. Importantly, this applies even when a worker has taken unpaid leave.

Following this decision, businesses are now faced with a number of onerous conditions before they can successfully argue that no holiday pay is owing. The financial cost of unpaid holiday pay could be very significant based on this decision.

Given this case we are recommending that businesses take the time now to:

- Review worker status to ensure self-employed individuals, workers and employees are correctly categorised and being offered paid leave, if required.
- Understand and quantify the risk associated with potential historical claims from workers and assess the options for resolving this.
- Review communications and practices to ensure workers are being offered and encouraged the opportunity to take leave (paid at the correct rates) and their carry over rights are clear.

National Living Wage and National Minimum Wage

Increases to the UK's National Living Wage (NLW) and the National Minimum Wage (NMW) apply from 1 April 2022 as follows:

- NLW (age 23+): increase from £8.91 to £9.50 (6.6% increase)
- NMW (age 21-22): increase from £8.36 to £9.18 (9.8% increase)
- NMW (age 18-20): increase from £6.56 to £6.83 (4.1% increase)
- NMW (under 18): increase from £4.62 to £ 4.81 (4.1% increase)
- Apprenticeship Wage: increase from £4.30 to £4.81 (11.9% increase)
- Accommodation offset rate: increase from £8.36 to £8.70 (4.1% increase)

This means that a full time worker (35 hours a week) 23 or older currently on the NLW will see an increase of £1,074 in their earnings per year. These increases ensure that the UK Government is currently on track to meet its commitment to have a NMW equal to two-thirds of median earnings by 2024.

The NMW is a complex and difficult area to manage and continues to be a topical issue. The UK Government publishes a regular 'naming and shaming list' in respect of those businesses that have not met the minimum requirements. The UK Government also imposes financial sanctions for non-compliance, which includes penalties of up to 200% of any underpayments identified (a large additional financial cost).

Freeports – NIC exemption for employers

Freeports are special areas within the UK's borders where different economic regulations apply. Eligible businesses operating in Freeports enjoy a range of tax incentives, such as enhanced capital allowances and relief from stamp duty. From 6 April 2022 an employer operating in a Freeport will also benefit from paying 0% Class 1 employer's NIC for jobs created from that date. This NIC relief will apply to earnings up to a threshold (currently set at £25,000 per year), paid to each qualifying employee during the first three years of their employment. Any earnings above the threshold will be subject to employer's NIC at the usual rate (currently 13.8%).

The relief will be available in relation to new employments that begin on or before 5 April 2026. There are detailed conditions for this relief, including that the Freeport employer must reasonably expect the employee (subject to some limited exceptions) to spend at least 60% of their working time at a single Freeport site in which the employer has business premises.

Earnings will not be eligible for Freeport relief if the individual was previously employed by the Freeport employer, or by a connected person, at any time during the two-year period prior to 6 April 2022.

Extension of exemption for COVID-19 testing

In March 2022 the UK Government announced an extension to current income tax and NIC exemption on both employer-provided, and employer-reimbursed COVID-19 diagnostic tests for one year to make sure that employees and employers will not be liable to NIC or income tax. The exemptions will have effect for the 2022/2023 tax year.

Employees' home-office expenses

As UK Government restrictions have been lifted, working from home is no longer a legal requirement. On 5 April 2022 the temporary income tax/NIC exemption put in place during the COVID-19 pandemic for certain COVID-19 related home-office expenses (where costs are reimbursed by the employer) will end.

Tax on UK income if living abroad

In 2020 HMRC introduced guidance for non-UK resident employees unable to leave the UK because of COVID-19 travel restrictions. This guidance stated that those employees would not be taxed on earnings for duties performed in the UK after their planned departure date, provided they were taxed in their home state. This easement will end on 5 April 2022. Any days spent working in the UK from 6 April 2022 onwards will be treated as days on which duties were performed in the UK.

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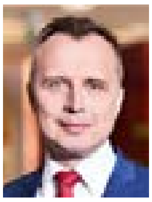

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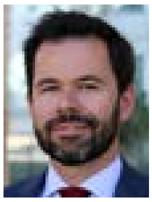

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The Americas

Chile

Residency

On 25 November 2021, the Chilean Tax Authorities published Circular letter N° 63 ('Circular'). The Circular sets out the Chilean Tax Authorities interpretation of the new definition of 'residency' contained in the Chilean Tax Code, which was introduced by Law N°21.210 on 24 February 2020.

In particular, the Circular seeks to clarify the scope and tax effects of:

- the concept of residency and domicile for tax purposes,
- when and how residency and domicile in Chile is acquired or lost, and
- the tax consequences of the acquisition or loss of residency/ domicile in Chile.

The new concept of residency introduced by Law 21.210 entered in force the first day of month following the publication of the Law (i.e. 1 March 2020) and includes:

- In the case of acquiring residency:
  - from day 1 to 183: non-resident income tax, and
  - from day 184 onwards: resident income tax.

In case of acquiring domicile from day 1 onwards, resident income tax applies. Furthermore, even after an individual loses domicile for tax purposes in Chile, they would still be considered a resident in Chile for up to 183 days after the individual's departure.

To prove the loss of tax domicile, the individual is required to provide a Sworn Statement indicating their willingness to break the domicile, together with the requirement to submit a draft tax return in accordance with Article 103 of Chilean Tax Law. Subsequently, the individual will be required to file as many annual tax returns as necessary to report income received within a period of 183 days after the individual's departure, and pay the relevant taxes, while they are still considered resident for tax purposes.

Mexico

Cancellation of CFDI (Electronic Payslips) from previous years.

In principle, under Mexican law, an employer is only able to deduct salary expenses where, amongst other things, payslips (CFDI) comply with certain guidelines and regulations. The usual deadline is March of each year in order to file the annual employer tax return and if the employer does not have the correct CFDI, it cannot deduct the salary expenses.

However, this year, the Mexican tax authorities have provided employers with a facility, until 30 September 2022, to make any changes to CFDI for 2021 in respect of fiscal years prior to 2021, provided certain conditions are met as follows:

- The corresponding complementary tax return(s), is submitted within the month following that in which the cancellation of CFDI is carried out.
- The employer has an active tax mailbox.
- There is the acceptance of the receiver.
- When the operation that covers the cancelled CFDI subsists, the employer has issued a new CFDI in accordance with the corresponding CFDI filling guides.

2022 Federal Unemployment Tax Act Credit reduction

The COVID-19 pandemic during 2020 and 2021 has caused a significant rise in state unemployment benefits. This has led to several states borrowing funds from the US Federal Government under Title XII of the Social Security Act ('Title XII'). The Federal Unemployment Tax Act (FUTA) provides that states that have an outstanding balance of advances under Title XII at the beginning of 1 January of two or more consecutive years are to be subject to a reduction in credits which are otherwise available against the FUTA tax, if all advances are not repaid before 10 November of the taxable year.

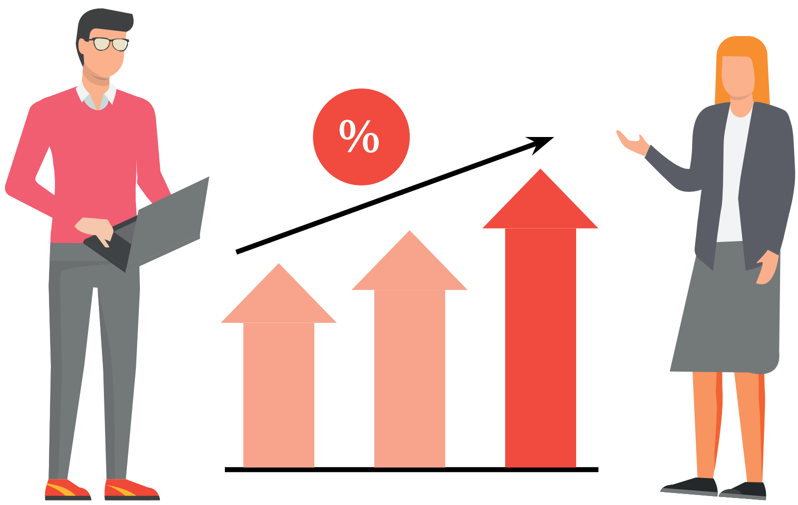
As of January 2022, the states of California, Colorado, Connecticut, Illinois, Massachusetts, Minnesota, New Jersey, New York and Pennsylvania have outstanding Title XII advances. If these states do not repay their FUTA advance balances by 10 November 2022, employers in these states will likely be subject to a FUTA Credit Reduction on their IRS Form 940, Employer's Annual Federal Unemployment Tax Return for 2022. These credit reductions are applied against the regular credit reduction of 5.4% available to employers that timely pay their state unemployment taxes, resulting in an effective rate of 0.6% applied to the first $7,000 in taxable wages. However, employers in these 'credit reduction states' may experience an increased FUTA tax rate of 0.9% (0.6% + 0.3% of 2022 potential FUTA credit reduction) for 2022 and will be required to make any additional payments along with the filing of the employer's 2022 Form 940.

2022 Social Security taxable wage base
The Social Security Administration has increased the Social Security taxable wage base to $147,000 for 2022 (up from $142,800 for 2021).

Seattle Payroll Expense Tax
Effective from 1 January 2021, Seattle implemented a Payroll Tax Expense tax on businesses with $7,386,494 or more of payroll expense, in Seattle, for the past calendar year (2021 for tax year 2022), and at least one highly paid employee whose annual compensation is $158,282 or more in the current calendar year. The tax is levied on the business and is calculated by multiplying the compensation of their highly paid employees by a set rate that will increase based on the total payroll expense of the business. The rates will range from 0.7% to 2.4%.

A company's payroll tax expense is defined as 'compensation paid in Seattle'. There are two methods approved for determining whether compensation is based in Seattle: the hours method and the primarily assigned method. The hours method calculates a percentage of an employee's compensation applicable based on their hours worked in Seattle versus the hours they've worked overall. The primarily assigned method assumes 100% of employee compensation is Seattle based if the employee: is primarily assigned to a Seattle location, performs 50% or more of their work in Seattle, or resides in Seattle. If an employee works less than 50% of their time in Seattle, their compensation is not considered taxable under this tax.

State of Washington Long-Term Care Tax
Washington originally planned to launch the Long-Term Services and Supports program on 1 January 2022, also called WA Cares, administered by the state's Employment Security Department (ESD). Employers would have been required to withhold and remit to the ESD a long-term care contribution of 0.58% of each employee's wages. On 27 January 2022 the Governor signed a bill announcing that the program would be deferred until 1 July 2023 and the ESD has advised that employers should stop withholding WA Cares premiums from employee earnings and reimburse employees for WA Cares premiums within 120 days of the date premiums were collected.



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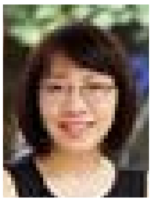

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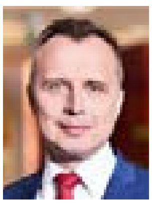

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