Global Employment Taxes Newsletter

February 2024

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Introduction

Dear all,

I am pleased to share our first Global Employment Taxes Newsletter of 2024. This edition brings updates on employment tax regimes from over 40 countries across the PwC network, including from many of the world's biggest economies.

Further to the last edition, we have tax budget, rate and threshold updates from across the network, as well as a focus on both remote working and associated provisions (Austria, Denmark, Netherlands, Portugal, South Africa, South Korea and the Netherlands), as well as fringe benefits updates and associated reporting (Germany, Hong Kong, Indonesia, Italy, Netherlands, New Zealand and the United Kingdom).

This edition also contains information from our dedicated Global Equity network, led by Kate Harris, Jennifer George and Michelle Kassis. Please contact us, or any of your PwC Employment Tax or Equity colleagues, if you have any queries, or would like to discuss anything further.

As you will see from this edition, there is a great deal of activity across the world on both domestic and international employment tax matters. We would be happy to share our insights and help you with any queries you may have.

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

John Harding
Global Employment Tax & Payroll Leader
john.l.harding@pwc.com

Australia

Share based payment recharges:

Recently, the Australian Taxation Office **(ATO)** concluded in a private binding ruling (**PBR**) (Authorisation Number: 1052071465515) that a share based payment **(SBP)** recharge paid by an Australian subsidiary company to its overseas parent Holding Company was not deductible for Australian tax purposes. SBP recharges are not an uncommon arrangement between parent companies and their Australian subsidiaries that have employees resident in Australia. The facts presented in the PBR are also typical of a usual arrangement between a Holding Company and Australian subsidiary with Australian employees. The PBR relates to the granting of restricted stock units **(RSUs)**, however the ATO view in the PBR is likely to have much broader application to other equity incentives also.

Whilst PBRs are only binding on the taxpayer in question, the PBR reiterates the importance of properly considering the tax deductibility of SBP recharges. The expectation is that, at a minimum, an appropriate recharge agreement is in place and the corporate tax and transfer pricing reasoning and arguments for tax deductibility is considered and documented.

Multinational groups with an Australian subsidiary, that are incentivising Australian individuals under a group plan (or will incentivise individuals under a group plan), should consider the ATO views presented, given the large amount potentially at stake.

Refer to an article published by PwC Australia here.

Payroll tax and equity awards:

Payroll tax is a State and Territory based tax that can apply to wages, which can include equity awards. It is therefore prudent to monitor changes and updates to payroll tax and related levies and surcharges. For example, payroll tax rates and thresholds are often subject to change, and surcharges or levies may be imposed – For example, recent surcharges and levies include the Queensland Mental health levy which commenced 1 January 2023, the Victorian Mental health and wellbeing surcharge which commenced 1 January 2022 and the Victorian COVID-19 debt temporary payroll tax surcharge which commenced 1 July 2023.

Employee share scheme securities law changes:

Part 7.12, Division 1A (Employee share schemes) of the Corporations Act 2001 (Cth) came into effect from 1 October 2022 (New ESS Legislation) and has since effectively replaced the operation of ASIC Class Order 14/1000 and ASIC Class Order 14/1001 (which were retired from use from 1 March 2023). The New ESS Legislation has significantly changed the ‘employee share scheme’ regulatory landscape in Australia and provides companies with holistic relief from disclosure requirements and other ancillary obligations under the Corporations Act (similar but not identical to the relief provided by ASIC Class Order 14/1000 and ASIC Class Order 14/1001). Among the biggest impacts of the New ESS Legislation is its expansion of unlisted companies' ability to implement broad based plans for their Australian workforce.

At a high level, provided the requirements of the New ESS Legislation are met, companies offering equity incentives to participants in Australia will receive the benefit of holistic relief from the requirement to prepare and file a disclosure document as well as other obligations under the Corporations Act (including in relation to holding an AFSL, advertising, hawking and design and distribution).

The requirements of the New ESS Legislation differ substantially depending on the nature of the equity instruments being offered. Companies should review their equity plan documentation (including employee share trust (EST) deeds, to the extent ESTs are used) to ensure their equity incentive plans are in compliance with the New ESS Legislation.

Final taxation ruling: Residency tests for Individuals:

On 7 June 2023, the Australian Taxation Office (ATO) issued final Taxation Ruling TR 2023/1, covering the tax residency tests for individuals inbound to and outbound from Australia.

The final ruling has been issued following consultation on its predecessor draft ruling (TR 2022/D2) and replaces and consolidates previous tax rulings on the residency status of individuals who are inbound to Australia (TR 98/17), leaving Australia to live overseas temporarily (IT 2650) and the residency status of business migrants (IT 2681).

The ruling discusses that Australian tax residency is determined based on an individual’s facts and connection to Australia, noting that two sets of similar facts may still have a different outcome due to differences in intention, motivation or life circumstances. Notwithstanding this, the ATO will look beyond the time spent in or out of Australia, and will look at surrounding income years for evidence to support a conclusion. To assist with this determination, the final ruling includes numerous additional examples to illustrate the ATO’s views on residency.

It remains to be seen whether the current tax residency rules will be modernised, consistent with previous proposals and the "bright-line" tests as proposed by the Board of Taxation.

Unless, or until, there is any change to the individual residency tax rules, the holistic approach of analysing the individual's facts and circumstances remains the same. The final ruling does not reflect a change in the existing tax residency rules. Rather, it reframes the ATO's view of those rules and how they should be applied to an individual's facts and circumstances, particularly in light of recent case law developments.

Read more

Superannuation Guarantee obligations for workers in the entertainment or sports industry:

Since COVID-19 shut borders across the world over three years ago, Australia is increasingly moving towards the centre of the world stage. The country has hosted the 2023 FIFA Women's World Cup, and sporting fans are already eager for the 2032 Summer Olympics in Brisbane.

Organisations have also looked to take advantage of these major events to stage their own promotional activities, such as product launches, or by running associated social media campaigns.

But have businesses fully considered the employment tax obligations that may arise - in particular, Superannuation Guarantee (SG) obligations?

Following recent case law on the ordinary meaning of an 'employee', and the extended definition of that term for SG purposes where one is engaged 'wholly or principally for labour', employers now have increased awareness and clarity on superannuation obligations in relation to contracting engagements more generally. However, we have observed that organisations are often unaware that there are further extended definitions of the term 'employee' under the Superannuation Guarantee (Administration) Act 1992 (SGAA), including in relation to contractors who "perform or present" in, or provide services "in connection" with, the entertainment and sports industries.

Read more

Federal Government and Australian Taxation Office double down on data-led superannuation reviews and debt-recovery proactivity:

On 27 July 2023, the Australian Taxation Office **(ATO)** released its 2023-24 Corporate Plan. As anticipated, 'Superannuation Guarantee integrity' was identified as one of the regulator's eight 'key focus areas' for the financial year, with the core objective being to '(c)ontinue to expand our use of data to improve superannuation guarantee **(SG)** compliance'.

This focus on SG compliance, through data-led analysis, should not come as a surprise - the Federal Government's May 2023 Budget specifically allocated $27 million to the ATO 'to improve data matching capabilities to identify and act on cases of SG underpayment by employers'.

Following the SG Amnesty and the extent of underpayments reported, SG compliance was identified as a parliamentary priority, with the Federal Government having commissioned the Australian National Audit Office **(ANAO)** to conduct an audit of the ATO's performance as SG administrator. It is evident that the ATO has now firmly implemented the key ANAO recommendations and, supported by Federal Government investment into data analysis, is making unprecedented advances in identifying, and acting upon, variances and discrepancies within employers' reported data in relation to SG (and pay-as-you-go withholding **(PAYGW)**).

Therefore, it is paramount that employers, as a priority, critically review governance in place.

Read more here.

Deductibility of transport expenses: Federal Court decision qualifies approach:

On 22 June 2023, the Federal Court handed down a judgement, which dealt with the deductibility (otherwise-deductible rule in a Fringe Benefits Tax (FBT) context) of transport benefits provided to relevant employees in relation to the company's work projects. The taxpayer's appeal was dismissed after concluding that the relevant transport costs in relation to the projects were not otherwise-deductible.

This decision is the first matter heard in the Federal Court since FCAFC 82, which was the catalyst for the Australian Taxation Office to revise its public guidance provided through Taxation Ruling TR 2021/1 - Income tax: when are deductions allowed for employees' transport expenses? (**TR 2021/1**).

The decision principally arose from what His Honour perceived as an important factual difference, being that the employees were not rostered on to duty upon arrival at the point of origin airport. His Honour noted that he had arrived at this decision despite his "initial impression" being that these costs were incurred in, or in the course of, gaining or producing assessable income.

This article summarises the main reasons for the decision, analyses these in the context of the decision and notes the key takeaways for taxpayers.

Read more

Payday super and the next dataled step in the ATO's pursuit of Superannuation Guarantee noncompliance:

The Government's Federal Budget, delivered on 9 May 2023, included a number of key developments in a Superannuation Guarantee (SG) context. The most significant of these was the proposed introduction of payday super. From 1 July 2026, employers will be required to remit their employees' SG entitlements on the same day that they pay salary and wages, rather than on a quarterly basis, as is the current obligation.

However, payday super doesn't just provide direct benefits to employees. Closer alignment between super remittances and salary payments will provide the ATO with better visibility of SG entitlements, allowing it to identify (and pursue) instances of non-compliance. To facilitate this, in advance of the introduction of payday super, the Government has also provided funding to enhance the ATO's data-matching capabilities and introduced a measure requiring that the ATO report its unpaid superannuation compliance activity outcomes.

The introduction of payday superannuation will be a significant change for employers. Even for those employers that currently remit superannuation concurrent with the payment of salary or wages, additional governance will need to be implemented around matters, such as super choice and super stapling, management of the remittance process (including the use of a clearing house) and review of bounce-backs.

It is clear that SG compliance will remain a focus of the ATO for the foreseeable future - The significant Government funding towards data capability, the compliance targets and the broader focus on superannuation indicate that employers are well-advised to proactively review their superannuation governance, both as it applies now, and with an eye to changing obligations in the future.

Read more

China

Increased deductions:

Deductible amounts of the following 3 items for Chinese tax residents have been increased effective from 1 January 2023:

- Infant care: RMB 2,000 per infant, per month
- Child education: RMB 2,000 per child, per month
- Elderly care: Single child - RMB 3,000 per month, Non-single child - RMB 1,500 per month (cap)

Preferential IIT treatment on equity incentives:

Preferential individual income tax (IIT) treatment on a listed company's equity incentive income received by Chinese tax residents is valid until 31 December 2027.

Non-taxable fringe benefits for foreigners:

Foreigners can continue to benefit from tax exemptions on non-taxable fringe benefits (such as housing, meals, laundry, home leave, language training and child education expenses) up to 31 December 2027.

Special IIT calculation method on annual one-off bonus:

Chinese tax residents can exclude their annual one-off bonus from their comprehensive income for the current year and calculate IIT separately.

To determine the applicable tax rates and quick deductions, the annual lump-sum bonus should be dividend by 12 first and then reference against the monthly converted comprehensive tax rate table

Extending Preferential IIT Treatment for the Guangdong-Hong Kong-Macao Greater Bay Area (GBA):

In order to support the development of the GBA, the MOF and the STA jointly issued the Notice, extending the IIT subsidies for overseas (including Hong Kong, Macao and Taiwan) high-level and urgently-needed talents working in the GBA. The Notice is applicable to the municipalities of Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing in Guangdong Province and is valid until 31 December 2027.

Hong Kong

Observation from Fringe Benefits Reporting in Hong Kong:

Albeit there are no changes to the prevailing Hong Kong tax rules on the treatment of fringe benefits, based on our observation from the latest practice of the Hong Kong Inland Revenue Department ("IRD"), they are taking a more stringent approach in reviewing the taxation of fringe benefits received by employees and office holders.

Employers generally understand the chargeability to Hong Kong salaries tax for direct monetary payments to employees. Omissions sometimes happen when it comes to benefits that are convertible into money by the recipients or represent the discharge of a personal liability of the employee.

Employers should keep in mind the Hong Kong salaries tax treatment for convertible benefits as well as the liability test as a determinant of chargeability. The IRD looked seriously into compliance issues, with heavy penalties being incurred for making incorrect returns without reasonable excuse. Employers are suggested to carefully review the nature of each of the fringe benefit item and clearly understand the Hong Kong salaries tax reporting obligation in order to be compliant.

India

Notification no. 43/2023 dated 21 June 2023:

The Income Revenue authorities issued a notification on 21 June 2023 which amended the income-tax rules, 1962. This has clarified the specified allowance and exemption in the hands of individuals who have opted for the New Tax Regime. The allowance shall include the following:

- Allowances to meet cost of travel on tour or on transfer;
- Allowances to meet the ordinary daily charges incurred by an employee on account of absence from their place of duty;
- Allowances to meet expenditure incurred on conveyance for business purposes provided any other conveyance is not provided by employer, and;
- Transport allowances granted to an employee, for individuals with disabilities commuting between the place of their residence and the place of duty.

Notification No. 15 of 2023 F. NO.370142/28/2023-TPL dated 16 August 2023:

The Ministry of Finance vide its Circular on 16 August 2023 has brought in significant amendments to payouts of Life Insurance Policy, which are as follows:

- With effect from 1 April 2023, sums received under life insurance policy, other than unit linked policies, issued on or after 1 April 2023 shall not be exempted if the amount of premium payable or paid exceeds Rs 5,00,000, except sum received on account of death.
- In the case of the individual having multiple policies where the aggregated premium does not exceed Rs 5,00,000, the exemption will continue to be available.

Indonesia

Further update on BIK rules in Indonesia:

Due to a law change in October 2021, the Indonesian tax treatment of Benefits in Kind **("BIKs")** substantially changed. Prior to the law change, BIKs were generally non-taxable to employees and non-deductible (for corporate income tax purposes) by companies. Under the law change, BIKs would generally become taxable to the employees and deductible by the companies for corporate income tax purposes. These new rules were intended to be implemented from fiscal year 2022 pending additional regulations to be issued.

In late December 2022 the Indonesian Government issued a Government Regulation (GR) No. 55 Year 2022. GR-55 provided confirmation that BIKs are generally taxable to employees starting from 1 January 2022, although there would be some exceptions to the rule among others BIKs of certain types and/or thresholds, which were to be further stipulated under another Ministry of Finance regulation. GR-55 also provided that employers were not obligated to withhold the tax through payroll for FY2022, but starting from the beginning of FY2023 such withholding would be required. However, the regulations also stipulated that income taxes on the BIKs, if not already withheld by the employer during fiscal year 2022, should be self-reported and the tax remitted by the employees when filing their annual individual tax return.

The additional regulation was not issued prior to the individual tax filing deadline, and thus many taxpayers took a decision to report most BIKs as taxable when filing the FY2022 tax returns by the filing deadline of 31 March 2023.

Subsequently, in June 2023 the long awaited further Ministry of Finance regulation providing the list of BIKs of certain types and within certain thresholds that would not be subject to tax. Government regulation No. 66 Year 2023 (MoF-66) was issued by the Ministry of Finance and came into effect starting 1 July 2023. Consistent with the GR-55, the body of MoF-66 also stipulated that BIKs are generally taxable to employees starting 1 January 2022 as mentioned above. However, the list of BIKs of certain types and/or thresholds in the attachment of MoF-66 (as the integral part of the regulation) then provided an exemption for ALL BIKs earned and/or received by employees in 2022.

MoF-66 also changed the period from which employers were required to start payroll withholding tax to 1 July 2023, but stipulates again that to the extent the employer has not withheld the tax through payroll, the employees will be required to self-report and pay the tax when filing their FY2023 individual income tax returns by 31 March 2024.

Indonesian taxpayers and/or employers that reported and paid taxes on BIKs for FY2022 now need to explore potential ways to rectify the situation either through re-filing of amended tax returns or through other administrative methods.

New Zealand

Payments for employees that work from home - Determination EE004:

Determination EE004 was released Tax treatment of reimbursing payments made to employees who work from home and/or payments made for an employee's use of personal telecommunications tools and/or usage plans in their employment. Determination EE004 amalgamates and expands on previously issued determinations and sets out to what extent a payment made by an employer to an employee to reimburse for working from home expenditure and/or telecommunication expense is able to be treated as exempt income to the employee. The determination is effective from 1 April 2023 with no end date.

Determination EE004 provides de minimis and safe harbour options which allow an employer to pay tax-free reimbursing allowances to employees for certain expenditure incurred without having to provide evidence of the underlying expense or undertaking any analysis of the proportion of time the asset is used in relation to the employee's work compared to private use. Additional reimbursements may be able to be paid fully or partially tax-free under the Determination when certain requirements are met.

The de minimis/safe harbour amounts are:

- Working from home tax free reimbursement of $20 per week. This is intended to cover the increased household expenses and depreciation loss associated with working from home.
- Business use of personal telecommunications equipment and usage plans $7 per week. This only applies where the employee uses their personal telecommunications tools and/or usage plans in the course of their employment.
- One-off payment for the employee to acquire office furniture $400 they use in relation to working from home.
- One-off payment for the employee to acquire telecommunications equipment necessary for work $400.

Cross border workers and tax arrangements:

The Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (No 5 of 2023) includes changes for cross-border workers' tax arrangements to take effect from 1 April 2023. These are aimed at increasing integrity and enabling flexibility. Some of the key changes include:

- Defining a "cross-border" employee.
- Enabling a 60-day grace period from penalties and interest where a cross-border employee breaches the conditions of an exemption, receives an unexpected PAYE income payment or where non-resident employers wrongly assess their liability.
- The ability to transfer FBT and ESCT obligations from a non-resident employer to an employee working in New Zealand, provided that the employer is not required to withhold PAYE (i.e. where the employee reports and pays their own PAYE through the IR56 mechanism).

New FBT exemptions for bikes and public transport:

The Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (No 5 of 2023) (the new Act) received the Royal assent on 31 March 2023. The Act introduced new FBT exemptions for certain forms of employer-subsidised commuting options. The exemptions are effective from 1 April 2023:

- "The public transport exemption" - involves the provision of employer-subsidised public transport, mainly for the purpose of travelling between home and work.
- "The bike exemption" - involves the provision of a 'self-powered or low-powered' vehicle (i.e. a bike or scooter) mainly for the purpose of travelling between home and work.
- The vehicle-share exemption" - relates to employer's contributions toward 'vehicle-share services' (i.e. bikes and scooters) used mainly for the purpose of travelling between home and work.

The key criterion for all three new exemptions is that the benefit needs to be mainly for travel between home and work.

It is also important to note that these exemptions are only in the FBT regime, and the PAYE rules do not contain any mirroring provisions. Therefore, any allowances or reimbursements for public transport, bikes, or vehicle sharing are likely to be subject to PAYE.

Final rulings on tax treatment of cryptoassets for remuneration:

On 15 May 2023, the Inland Revenue issued final versions of rulings on the tax treatment of cryptoassets when paid as remuneration to employees. The rulings are in four parts:

- Income tax - salary and wages paid in cryptoassets. This ruling considers when employee remuneration paid in cryptoassets will be a "PAYE income payment" under s RD 3 of the Income Tax Act 2007 for which the payer of the cryptoassets will have PAYE obligations.

- Income tax – bonuses paid in cryptoassets. This ruling considers when a bonus or an incentive paid in cryptoassets will be a "PAYE income payment" under s RD 3 of the Income Tax Act 2007 for which the payer will have PAYE obligations.
- Income tax – employer issued cryptoassets provided to an employee. This ruling considers when cryptoassets issued by an employer and paid to an employee will be a fringe benefit, how the benefit is valued and the time at which the benefit is provided.
- Income tax – application of the employee share scheme rules to employer issued cryptoassets provided to an employee. This ruling considers when the provision of cryptoassets to an employee will constitute an employee share scheme in respect of which an employee derives a taxable benefit that is employee income under s CE 1(1)(d) of the Income Tax Act 2007.

Cyclone Gabrielle and flooding event tax relief extension:

Supplementary Order Paper No 319 to the Bill (the SOP) was passed which provides tax relief for employers' welfare contributions and accommodation provided to employees affected by North Island's flooding and Cyclone Gabrielle. The features are:

- Tax exemption for ex-gratia welfare cash contributions and other non-cash benefits provided to affected employees made within 8 weeks of the first date of the relevant event, up to $5,000 in cash or benefits and unlimited contributions (not subject to $5,000 limit) on accommodation.
- Sundry benefits provided to affected employees made within 8 weeks of the first date of the relevant event (e.g. an employer provides the 'benefits' to a recovery centre and it is hard to identify what benefits a specific employee has received). In this situation there is no specified limit.
- An extension of the 3 year time limit for accommodation provided to employees working on projects of limited duration to 5 years in relation to rebuild/recovery projects commenced on or before 1 April 2023.

Change to the FBT prescribed interest rate on employer-provided loans:

The Income Tax (Fringe Benefit Tax, Interest on Loans) Amendment Regulations (No 2) 2023 (SL 2023/184) were notified in the New Zealand Gazette on 3 August 2023. The regulations, which come into force on 1 October 2023, amend the Income Tax (Fringe Benefit Tax, Interest on Loans) Regulations 1995. The new prescribed rate of 8.41% (previously 7.89%) for calculating fringe benefit tax on employer-provided loans applies for the quarter beginning 1 October 2023 and subsequent quarters. Given the frequency of recent changes we provide a summary of the recent rate changes below:

Effective from	Effective to	Prescribed rate
1 October 2023	Present day	8.41%
1 April 2023	30 September 2023	7.89%
1 January 2023	31 March 2023	6.71%

Use of Money interest rates:

The Taxation (Use of Money Interest Rates) Amendment Regulations (No2) (SL 2023/179) amend the Taxation (Use of Money Interest Rates) Regulations 1998 to:

- increase the taxpayer's paying rate of interest on unpaid tax to 10.91% (previously 10.39%) per annum; and
- increase the Commissioner's paying rate of interest on overpaid tax to 4.67% (previously 3.53%) per annum.

This came into force on 29 August 2023.

Given the frequency of recent changes we provide a summary of the recent rate changes below:

Effective from	Effective to	Underpayment rate	Overpayment rate
29 August 2023	Present day	10.91%	4.67%
9 May 2023	28 August 2023	10.39%	3.53%
17 January 2023	8 May 2023	9.21%	2.31%
30 August 2022	16 January 2023	7.96%	1.22%

South Korea

Extension of the special tax concession timeline for foreign workers

Foreign expatriates and employees are eligible for a flat tax rate of 19% (20.9% including local income tax) on income earned in Korea for a period of 20 years starting from the first day of their work if they start work no later than December 31, 2026 under the recent tax reform. In this case, any other income deductions, tax exemption, and tax credit are disallowed. However, under the tax reform, employer-provided housing benefits will be permanently excluded from the earned income of foreign expatriates and employees eligible for the special tax concession.

Thailand

Law interpretation change:

Please note that Thai residents who have assessable income in the past tax year due to work duties or activities performed abroad or because of assets located abroad, who have brought that assessable income into Thailand in any tax year, have a duty to include that assessable income in calculating personal income tax.

Asia Pacific Contacts

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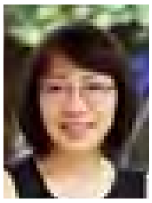
Greg Kent
Partner, PwC Australia
E: greg.kent@au.pwc.com



Jane Cheung
Partner, PwC China
E: jane.kc.cheung@cn.pwc.com

Nikhil Rohera
Partner, PwC India
E: nikhil.rohera@pwc.com

Brian Arnold
Partner, PwC Indonesia
E: brian.arnold@pwc.com

Ellen Tong
Partner, PwC Hong Kong
E: ellen.tong@hk.pwc.com

Phil Fisher
Partner, PwC New Zealand
E: phil.j.fisher@pwc.com

Ju-Hee Park
Partner, PwC South Korea
E: ju-hee_1.park@pwc.com

Somsak Anakkasela
Partner, PwC Thailand
E: somsak.anakkasela@pwc.com

Europe, Middle East and Africa

Albania

Decision no.113, date 1.3.2023 For determining the minimum salary on a national level:

Starting from 1 April 2023, the minimum monthly salary for employees nationwide, which is mandatory to be applied by any person, legal or physical, local or foreign, will be 40,000 ALL, (for 174 working hours per month). The maximum salary, for the purpose of calculation of social security contributions, will be 176,416 ALL.

The minimum hourly base salary will be 229.9 ALL, and permanent allowances are given on top of the base salary.

Startup development updates:

On 28 June 2023, Law no. 36/2023 on “Amendments and supplements to the Law no. 25/2022 on “Support and development of start-ups (the “Amendment”) came into force.

Mobile digital employees are foreign citizens who use the communication technology to provide their professional services and/or perform these services on behalf of entities outside the territory of the Republic of Albania, without having a registered office or headquarters.

Forms of support for digital mobile workers:

- Mobile digital employees will not be considered tax residents in the Republic of Albania for a period of 12 months.
- Notwithstanding any provision of the Income Tax Law, a non-resident entity shall not be deemed to establish a permanent establishment in the Republic of Albania merely because it receives services from a mobile digital worker or solely because it has employed a digital mobile worker.

Compulsory Health Insurance

Law No. 65/2023 "For an addition and amendment to the law no. 10383, dated 24.2.2011, "On compulsory health insurance in the Republic of Albania", amended” was published in the Official Gazette no. 116 and came into force 15 days after the publishing date.

Persons employed by profession in the field of information technology (IT) and registered in subjects with main activity in the field of technology information, who exercise their activity according to law no. 58/2022, "On the creation, organisation and operation of technological and scientific parks", approved according to the legislation in force for this category, pay health insurance contributions at the level of the minimum monthly salary in the country, with the prior approval of the employee, recorded in the employment contract, regardless of the declared gross salary.

Changes to Social Insurance

Law No. 64/2023 ""On some additions and changes to law no. 7703, dated 11.5.1993, "On social insurance in the Republic of Albania, as amended" was published in the Official Gazette no. 116 and came into force 15 days after the publishing date.

The law expressly determines that the maximum wage, for the effect of contributions, increases by the same amount and at the same time as the amount that the minimum wage increases on a national scale.

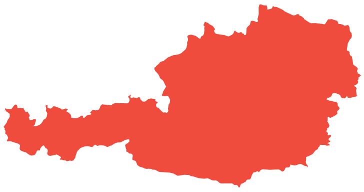
Recipients of an old-age pension who are self-employed as sole workers in the private sector are exempt from the obligation to pay compulsory social security contributions. The payment of monthly pension instalments is not prohibited for employed or self-employed beneficiaries, but the employment period is not recognized as an insurance period, under the effects of this law.

Income tax updates:

A new law on Income Tax (no. 29/2023) has been approved and comes into effect from 1 January 2024. According to this law, taxable income from employment will be taxed progressively as below (effective from 1 January 2024):

Annual taxable base Employment Tax Rate	
0 – 2 040 000 ALL	13%
Over ALL 2 040 000	23%

That is a general rule and deductions, exceptions and specificities apply, depending on the employee.



Austria

Reminder regarding domestic exemption with progression:

The Austrian Supreme Administrative Court has confirmed a domestic exemption with progression in the case of a foreign-resident taxpayer, thereby diverging from previous administrative practice. The exemption with progression determined that for calculating the standard tax rate, worldwide income whose right to tax is granted to the other state under the double taxation agreement (DTA) is taken into account. Natural persons subject to an unlimited tax liability and resident abroad, pursuant to a DTA are directly affected by the new regulation.

Unlimited tax liability is met if the domicile (meaning an accommodation occupied under circumstances indicating that the accommodation will be kept or used) or the habitual abode (meaning an abode indicating that one is residing in this place not only temporarily) is in Austria. The criteria of residence abroad is met for all those having close personal or economic relations abroad (subsidiary the characteristics of habitual abode or citizenship are also relevant).

Consequently by application of the domestic exemption with progression, a higher Austrian income tax burden is expected for the tax year 2023. Furthermore, natural persons subject to unlimited tax liability in Austria who are a resident abroad must submit a mandatory income tax return in Austria if the income allocated to the other state for taxation (including income subject to the exemption with progression) exceeds an amount of EUR 730.

The taxpayers directly affected by the new administrative practice are encouraged to keep a comprehensive document of all income allocated to foreign states. This does not only concern types of income subject to standard income tax (e.g. income from employment or income from rentals and lettings) but also types of income subject to a special tax rate (e.g. income from capital assets).

Legislative update: Relief measures in the context of the abolition of “bracket creep”:

On 15 September 2023, the Council of Ministers adopted a circular resolution in the context of the abolition of “bracket creep”, outlining the basics of the new relief measures, which are expected to enter into force as of 1 January 2024:

- The first four tax brackets are adjusted progressively to the inflation rate. Furthermore, the profit allowance (basic allowance) will be increased from EUR 30,000 to EUR 33,000.
- Tax advantages for special payments for overtime will also be extended. The monthly tax-free allowance will be increased from EUR 86 to EUR 120. Additionally, for the first 18 hours of overtime in one month (for 2024 and 2025) a monthly tax-free allowance of EUR 200 will be introduced, which will be re-evaluated after this time limit has expired.
- Tax advantages for dirty, demanding and dangerous work as well as special payments for working on Sundays, public holidays or at night will be increased from currently EUR 360 to EUR 400 per month.
- The provisions regarding working from home will be prolonged for an indefinite period of time.
- The additional child allowance will be increased from EUR 550 to EUR 700 per month. The childcare subsidy that employers may grant tax-free to their employees for children up to age 14 will be doubled from EUR 1,000 to EUR 2,000. Additionally, children may in future attend corporate nurseries at a lower cost or free of charge even if their parents do not work for the respective company.

It remains to be seen how the respective legislative proposals on the planned measures will be implemented.

Social Security in the context of cross-border teleworking:

The Multilateral Framework Agreement introduces relief regarding social security when working remotely in the foreign state of residence.

According to the normal rule, employees teleworking 25% or more of their working time in their state of residence, which is not the state where the employer is established, will be subject to the social security scheme of the state of residence.

Under the new Multilateral Framework Agreement, switching to the foreign social security scheme is only mandatory when teleworking in the foreign state of residence for 50% or more of the total working time. Upon request, employees teleworking between 25% and 49% of their total working time in the foreign state of residence may remain subject to the social security scheme of the state in which the employer has their registered office.

For applications filed until 30 June 2024, the application takes retroactive effect as of 1 July 2023. Applications for A1 certificates filed until 30 June 2023 based on Bilateral Framework Agreements remain valid until the end of the corresponding period.

The Multilateral Framework Agreement applies only to those EU Member States which signed the Agreement: Austria, Belgium, Croatia, Czech Republic, Finland, France, Germany, Liechtenstein, Luxembourg, Malta, Norway, Poland, Portugal, Spain, Sweden, Switzerland, The Netherlands, The Slovenian Republic, The Slovak Republic.

As long as certain EU Member States do not ratify the Multilateral Framework Agreement, the normal rule of EU Regulation No. 883/2004 (cf. Point 1) remains applicable.

Legislative update: Flexible Company and tax advantages of employee share plans:

A new company form “Flexible Company”, or “FlexCo” for short, with a minimum share capital of EUR 10,000 is to be introduced. As of 1 January 2024, employees of FlexCos will have the opportunity to participate in a stock corporation's commercial success through the issuance of company shares more easily, and receive tax advantages.

If certain prerequisites concerning the size of the start-up company are met, company shares can be granted to employees at no cost within the first ten years from company formation. A maximum of 25% of the “FlexCo’s” capital can be held by the employees, with a maximum of 10% participating interests per employee.

Income tax is no longer due at the moment of transfer of company shares to the employee, but at the later moment of actual disposal of these shares or when other conditions are fulfilled (such as termination of employment).

Disposal proceeds or the fair market value at the moment of realisation of the taxable event are to be used as the tax basis. 75% of the assessment base is to be taxed at the special tax rate of 27.5% as other earnings and no labour-related costs are due. For the remaining 25%, income tax at the regular rate is to be withheld and labour-related costs are to be charged.

Botswana

Individual income tax returns for the tax year 2023:

Deadline and process to be followed for the individual income tax returns (2023):

- Individual income tax returns for the tax year 2023 (from July 2022 to June 2023) are due for submission on or before 29 September 2023.
- All individual taxpayers who are registered for tax are required to submit their annual income tax return on or before the due date.
- All individual taxpayers must use BURS e-services to submit their return before the due date.
- BURS confirms that individuals are not required to submit an annual income tax return if they meet all of the following conditions:
  - a gross income less than P480,000 per year
  - the income arises solely from employment
  - the income is from a single employer
  - correct PAYE has been deducted by the employer.
- If you have multiple sources of income, then it is required to submit your tax return even if your income is less than P480,000 per year.
- Employees with annual employment income exceeding BWP 480,000 per year should have registered as a taxpayer. The threshold of BWP 480,000 for tax return submission does not affect the registration requirement.

Chad

Tax payments via e-Tax:

Pursuant to the provisions of articles 7, 8, 9, 10 and 11 of the Finance Act for 2023 amending articles 849, 855, 865, 867 and 868 of the General Tax Code:

- Each tax payment shall be accompanied by a declaration (payment slip) generated via e-Tax.
- The payment slip bears a number, the NIF, the name of the taxpayer or the company name and full address of the taxpayer and the date of payment.
- The tax payment is recorded in the e-Tax system.
- Once the tax has been paid, e-Tax generates a receipt. A duplicate e-Tax receipt can be issued to a taxpayer on request. The receipt can also be generated by the Pay mobile payment terminal.)
- Electronic receipts generated by e-Tax are issued to taxpayers as a matter of course or at their request to justify the payment of their taxes.

Updated income tax rates:

In application of article 36 of the Finances act for 2023 which amends article 1 of the General tax code, the brackets and rates of earned income subject to IRPP have been amended as follows:

- From 0 to XAF 800 000 : 0%
- From XAF 800 001 to XAF 6 000 000 : 10.5%
- From XAF 6 000 001 to XAF 7 500 000 : 15%
- From XAF 7 500 001 to XAF 9 000 000 : 20%
- From XAF 9 000 001 to XAF 12 000 000 : 25%
- More than XAF 12 000 000 : 30%

Please note that these amounts are annual.

Croatia

Tax reform in Croatia:

The Program of the Government of the Republic of Croatia for the mandate 2016 - 2020, has set goals in relation to the tax system in addition to a comprehensive tax reform that includes all segments of the tax system. This program is especially focused on simplifying the tax system, expanding the tax base and tax relief for citizens and entrepreneurs. To fulfil the set goals, a new Personal Income Tax Act came into force on 1 January 2017, with the aim of reducing tax burden and simplifying the tax system. As a result there were further amendments to the Act. The latest amendments are dated 4 October 2023 when the Act on Amendments of Personal Income Tax Act was published with some of the provisions entering into force on 5 October 2023 and the remaining majority of provisions on 1 January 2024.

Some of the amendments are set out below:

- With the aim of increasing autonomy of local authorities and reducing the dependence of units of the local self-government on transfers from the central government, autonomy has been given to local self-government units to prescribe the level of tax rates for the so-called annual income (i.e., active income - income from employment, income from self-employment income and the so-called other income that is not considered final). The local self-government units will be able to choose the two progressive tax rates from a range whereby 15% represents the lowest possible rate and 35.4% represents the highest possible. However, the actual ranges from which a municipality/city will be able to choose the lower and the higher of the two progressive tax rates will depend on the size of the municipality/city (e.g., a city with less than 30,000 residents can choose a lower rate in the range of 15% - 22.40% and a higher rate in the range of 25% - 33.60%, etc.).
- Setting the level of tax rates for the so-called final income (i.e., passive income - income from property and property rights, income from capital and other income that is considered final) is excluded from the authority of the local self-government units. This income will be subject to tax at a single tax rate, depending on the income type. The rate may be set at 12%, 24% or 36% (compared to the currently applicable 10%, 20% and 30%) with certain exceptions.
- Abolishing municipal tax as of 1 January 2024. Two public dues (personal income tax and municipal tax) that were collected at the same time and were applied to all income types are combined into a single public dues.
- Previous amendments that entered into force on 1 January 2023 were, amongst other, related to implementation of the National Plan for the Changeover from the Croatian Kuna to Euro whereby the provisions related to the kuna were amended to introduce the euro as the official currency in the Republic of Croatia. However, this resulted in prescribing amounts that are impractical in application. Consequently, there was a need to round these amounts to enable their application to be as simple as possible without putting taxpayers in a financially less favourable position compared to the position they were in before the rounding of those amounts.
- The basic personal allowance will be increased from EUR 530.90 per month to EUR 560 per month as of 1 January 2024. Taxpayers with dependent family members are entitled to an increase of the basic personal allowance:
  - For a dependent family member current - EUR 232.27 per month; as of 1 January 2024 - EUR 280.00 per month;
  - for a dependent first child: current - EUR 232.27 per month; as of 1 January 2024 - EUR 280.00 per month;
  - for a dependent second child: current - EUR 331.81 per month; as of 1 January 2024 - EUR 392.00 per month; etc.
- Currently the applicable annual tax base to which a lower tax rate applies is up to and including EUR 47,780.28 per year / EUR 3,981.69 per month. As of 1 January 2024 the applicable values are set at EUR 50,400.00 / EUR 4,200.00 per month respectively. The current tax rates are 20% and 30%. They are increased for municipal tax levied as surtax to tax liability at a rate ranging between 0% - 18% depending on the income recipient's place of residence or habitual abode.
- Introducing a system of taxation for the taxable part of gratuity.
- Extending the scope of the beneficial tax treatment of income based on award or optional purchase of shares in a public limited company (in Croatian, dioničko društvo) to shares in a private limited company (in Croatian, društvo s ograničenom odgovornošću).
- Extending the non-taxable treatment of interest paid by all types of bonds to interest paid by debt securities and money market instruments issued by the Republic of Croatia and local and regional self-government units (e.g., government bonds, treasury bills, etc.).
- Exempting from taxation capital gains realised based on disposal of securities and money market instruments issued by the Republic of Croatia and local and regional self-government units.

Czech Republic

Personal income tax changes:

Significant tax changes, including changes to personal income tax, are currently being prepared in the Czech Republic, form part of the Czech Government's budget consolidation package. These tax changes are currently under review by the Czech parliament and if enacted, should come into force from 2024.

Among others, there is a proposal of a major change in taxation of non-cash employment benefits, sickness insurance and personal income tax credits. The government also proposed a change to the threshold for applying the progressive 23% income tax rate. Other proposed amendments set to limit the tax exemption on income from the sale of company shares and securities to CZK 40 million per calendar year for individuals. The current legislation does not set any such maximum limit on the exemption of income from the sale of company shares and securities.

Denmark

Foreign consultants hired through manpower companies:

The Danish Tax Agency has increased its focus, following a court ruling in December 2022, in regards to Danish companies hiring foreign consultants through manpower companies. Manpower companies are obligated to report and withhold A-tax. According to the new ruling, the Danish Tax Agency's position is that the ultimate user of the service (i.e., the Danish company) is responsible for reporting and withholding Danish taxes.

Following the ruling, there has been an increased focus on the use of consultants.

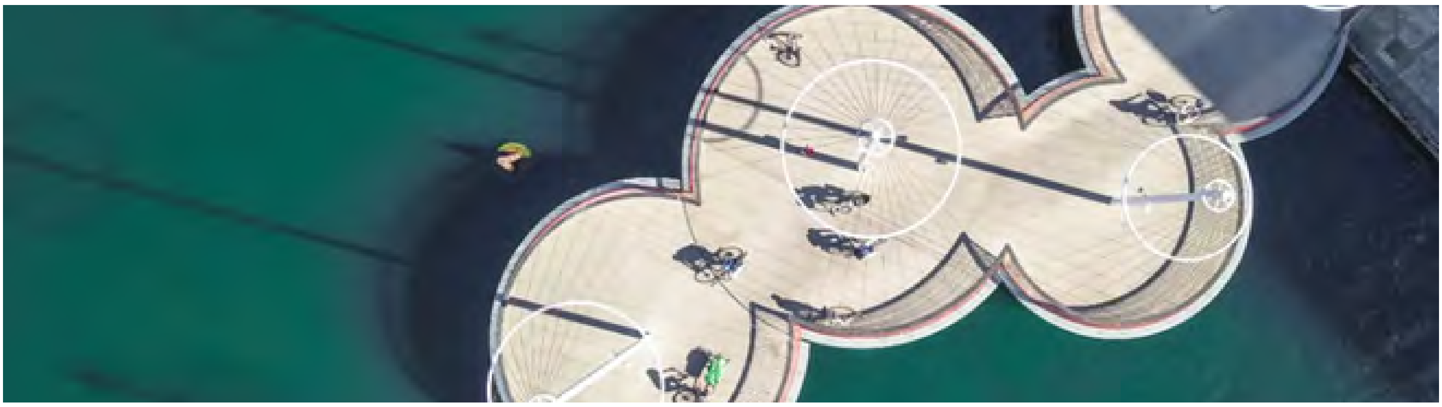
Taxation of individual's foreign income:

In September 2023, the Danish Tax Agency issued a guidance note to Section 33 A of the Danish Tax Assessment Act representing a change in the requirements for the application of the rule which may impact both employees who are already using Section 33 A and employees who intend to use this rule in the future.

Section 33 A allows Danish taxpayers to stay abroad for shorter or longer periods without paying Danish tax on their foreign income if a set of objective conditions regarding the scope and nature of their stay abroad are met.

Going forward it is a requirement for the use of Section 33 A, that the reason for the employee's stay abroad is based on the employer's circumstances. Working abroad which is more driven by the employee's situation and not linked to the employer's circumstances will generally no longer be covered by section 33 A. The possibility of using Section 33 A is limited, including flexible work.

In a situation where Section 33 A does not apply, the main rule is, that the employee must pay full Danish tax of the foreign salary income, and the employer is obligated to withhold A-tax in the amount paid.



Egypt

Amendments to personal income tax applied on salaries and the like come into effect as of July 2023, as per income tax law No. 30 that was recently issued from the Egyptian Government. Below is a summary of the key personal income tax law amendments as provided by the new law in article 8:

- The annual personal exemption is increased from EGP 9,000 to EGP 15,000.
- The first income tax bracket (subject to 0% tax) is broadened from EGP 15,000 to EGP 21,000.
- Taxpayers with higher taxable incomes are not allowed to avail the lower tax brackets, as per the below:
  - The annual taxable income ranging between EGP 600,000 and EGP 700,000 is not eligible for the 0% tax bracket.
  - The annual taxable income ranging between EGP 700,000 and EGP 800,000, is not eligible for the 0% and 2.5% tax brackets.
  - The annual taxable income ranging between EGP 800,000 and EGP 900,000 is not eligible for the 0%, 2.5% and 10% tax brackets.
  - The annual taxable income ranging between EGP 900,000 and EGP 1,200,000 is not eligible for the 0%, 2.5%,10% and 15% tax brackets.
  - The annual taxable income of above EGP 1.2M, is not eligible for the 0%, 2.5%,10%, 15% and 20%, 22.5% tax brackets.
  - The addition of the new tax bracket 27.5% for the annual taxable income above EGP 1,200,000.

Employees working for multiple employers:

As per income tax law No. 30 for the year 2023, employees working for more than one employer are subjected to a flat rate of 10% taxes on the salaries received from their secondary employer(s), in which the secondary employer(s) will be liable to pay these deducted tax amounts to the Egyptian tax authority.

The secondary employer(s) is obliged to report to the employee's main employer the salary amount, taxes deducted and paid to the tax authority in order to allow the main employer to reconcile the total annual salary received by the employee from all of their employers in accordance with article (8) of the income tax law.

The method for the reconciliation and reporting will be detailed and explained as per the executive regulations for the law, which is yet to be issued.

New Payroll tax filing process:

As per decree No. 386 for 2023 from the Minister of Finance, the tax authority has launched a new process with regards to the payroll tax filing process along with the payroll tax quarterly declaration and annual reconciliation filing for all companies.

This new process is to be completed over a new portal governed by the Egyptian Tax Authority called The Unified Payroll Tax Calculation Platform (UPTCP).

Companies joining this new platform are required to upload all their payroll items (gross & net items whether subjected to taxes or tax exempted) on a monthly basis in order for the UPTCP to calculate the actual salary tax amount that needs to be paid to the tax authority.

After the submission for the monthly filing, the salary tax payment form for the month will be automatically generated on the Egyptian Tax Authority Portal.

The decree has clarified the rollover stages for the different companies under the different tax centres, the first and second stages of the rollover includes the specific names of the companies that are entering this new platform (500 companies for the first stage starting as of 15th October 2023 and 1000 companies in the second stage starting as of 15th December).

Companies joining in each stage as per the dates announced in the decree have to upload the payroll data retroactively from the beginning of the tax year, which is January for the calendar year.

On the other hand, the new tax filing system reconciles on a monthly basis considering all the previous periods for the tax year; accordingly, there will be a tax reconciliation on a monthly basis from the employees' salaries.

Companies are required to perform the monthly tax filing as of the 15th of the month and they have a grace period for submission without any penalties or interests imposed till the 15th of the following month.

After applying this new process, the filling of the annual reconciliation will be reflected through the unified payroll tax portal along with the quarter declaration filing automatically.

France

Withholding tax on salaries paid by foreign employers updates:

Withholding tax on salaries paid by foreign employers updates:

As a general rule, following articles 4 B and 164 B of the French Tax Code ("FTC"), income from salaried activity carried out in France on behalf of a foreign employer constitutes French-source income that is taxable in France, even if the activity is carried out on an occasional basis and from the employee's home office.

Until now, every month, foreign employers - or their tax representatives - had to deduct the withholding tax from wages paid in France at the rate set and communicated by the tax authorities, and declare the corresponding amounts via a specific tax return on a monthly basis.

As from the 1st of January 2023, the modalities of the withholding tax on salaries paid by a foreign employer have changed; the foreign employers concerned do not have to withhold income tax on the salaries paid to their employees working from France anymore. The French income tax is now paid by way of advance payment set up by the employees themselves.

However, in order to benefit from this new regulation, several conditions should be met.

Conditions relating to employees: The employees concerned are, in most cases, the employees who, pursuant to Article 13 of Regulation (EC) 883/2004 of 29 April 2004 on the coordination of social security systems, are not covered by a compulsory French social security scheme for the periods in respect of which the income is paid.

In practice, this means employees resident in France who receive remuneration from a foreign employer for an activity carried out in France for less than 25% of their total working time.

Conditions relating to employers: The employers concerned are those established outside of France:

- in a Member State of the European Union;
- or in another State or territory that has concluded an administrative assistance agreement with France to combat tax fraud and tax evasion, as well as an agreement on mutual assistance for the recovery of claims similar in scope to that set out in Directive 2010/24/EU of 16 March 2010 on mutual assistance for the recovery of claims relating to taxes, taxes, duties and other measures, including where such assistance is limited to the recovery of income tax due in respect of such salaries and wages, and which is not an uncooperative State or territory within the meaning of Article 238-0 A of the CGI.

The foreign employer(s) concerned must declare each year to the tax authorities, for each beneficiary, information relating to the net taxable amount of income paid, before deduction of professional expenses.

Therefore the company should register in France, and this income must be declared in the PASRAU declaration for the main month declared in January following the year in which the income was received. This declaration must be filed by 10th of February following the year in which the income was received.

Indexation of personal income tax rates in relation to inflation for 2023 income:

The draft Finance Bill for 2024 n°1680 provides for indexation of the personal income tax rate scale to inflation, for income generated in 2023. More precisely, article 2 of the French draft Finance Bill provides for all brackets on the income tax scale to be raised by 4.8% on 1 January 2024.

According to the explanatory note provided in the draft Finance Bill, these provisions should neutralise the effects of inflation on household tax levels.

However, we will have to wait for the final Finance Bill to be passed before we know whether this provision has finally been adopted or not.

Germany

Government Draft for a Growth Opportunities Act:

The Federal Ministry of Finance published its DRAFT bill for the "Act to Strengthen Growth Opportunities, Investment and Innovation as well as Tax Simplification and Tax Fairness (Growth Opportunities Act)". The law is due to come into force at the end of the year and will amend or complement several sections in the German Income Tax Act (GITA).

Topics concerning wage tax are as follows:

- Increase of the per diems for additional subsistence expenses in the case of work away from home as of 1 January 2024 to EUR 30 for 24-hour absences and to EUR 15 for arrival and departure days or absences of more than 8 hours.
- Increase of the tax-free allowance for employees for company events to EUR 150 as of 1 January 2024.
- Abolition of the so-called "one-fifth rule" in the wage tax procedure as of 1 January 2024 for remuneration for several years' work or severance payments.
- Limited tax liability with extraordinary income subject to reduced taxation will no longer trigger an assessment obligation. The new § 50 (2) sentence 2 no. 4 lit. d GITA-DRAFT will open up the possibility of an application for assessment.
- Notional extension of the limited tax liability for employees commuting to Germany for income that accrues after 31 December 2023.
- Adjustment of the tax-free allowance and supplement to the tax-free allowance for pensions. Hence it is envisaged that the reduction of the percentage tax-free amount, the maximum amount and the supplement to the allowance for pensions will be reduced in only in half steps per year and thus be stretched until the start of the pension in 2058
- Adjustment of the percentage and maximum amount of the old-age relief. Similar to the pension allowances, the reduction of the percentage old-age relief amount and maximum amount from 2023 onwards is to be spread out over time, with a phase-out date of 2058.

Government bill for an act onthe financing of future-proof investments (Future Financing Act) passed:

On 16 August 2023, the German cabinet approved the Government's Draft for a Future Financing Act. The Draft is now being discussed in the German Parliament.

Topics concerning wage tax are as follows:

- Increase of the tax-free allowance under section 3 no. 39 GITA as of the 2024 tax year from the current EUR 1,440 to EUR 5,000.

Further multiple changes in section 19a GITA are planned. Extension of the tax provisions on deferred taxation of non-cash benefits from employee share ownership from the 2024 tax year onwards, through:

- Extension of the preferential treatment by doubling or quadrupling the SME thresholds. In addition to an extension of the period for the harmless SME threshold to be exceeded to 7 years and extension of the relevant date of formation of the company from previously 12 years to 20 years before the date of the investment.
- Extension to cases in which the company shares are not granted by the employer itself but by the (founding) shareholders.
- Introduction of a group clause, so that employers can also give their employees shares of other companies that belong to the same group on a preferential basis.
- Taxation of the non-cash benefit from asset participations in future (at the latest) after 20 years after transfer of the asset; this shall also apply to asset participations that are or were transferred before 2024.
- The creation of the option of lump-sum taxation at a rate of 25% for all cases mentioned in section 19a para. 4 sentence 1 GITA will be deleted.

Foreign managing directors, board members & authorised representatives- wage tax and criminal law risks:

There is still an increasing number of cases in the employment tax practice, in which the German tax authorities review foreign managing directors, board members and authorised representatives of German corporations, who are resident abroad and who work for a German corporation from abroad. The reviews are primarily focused on wage tax withholding obligations. The question of a corresponding income tax withholding obligation for employers is currently, in our experience, regularly the subject of external wage tax audits. We are also aware that the tax authorities have directly initiated criminal investigations outside of an audit.

Recommendation for action:

- Examine whether the DTT in question contains a special provision for foreign managing directors("managing director clause"), according to which Germany has the right of taxation irrespective of the actual place of activity. Even without a special provision an examination would have to be carried out on the basis of the general regulations on the taxation right (in particular with regard to working days in Germany).

- Reduction of liability risks, as well as risks from fines and criminal law through the early involvement of specialist payroll tax and criminal law.
- Reduction of any procedural risks, e.g. in relation to the avoidance of double taxation.
- Prompt adjustment or identification of design options with regard to existing processes in order to avoid any wage tax withholding obligations and latent liability risks for the future.

Latest Developments of the "49-Euro-Ticket" (so-called Deutschlandticket):

With the Deutschlandticket everyone can travel throughout Germany on public transport. The Deutschlandticket started 1 May 2023 and is very popular as an incentive for employees.

It can be granted as a job ticket by the employer with the following benefits:

- If the employer pays at least 25 percent of the issue price per month and ticket, the Deutschlandticket can be issued as a job ticket with a maximum discount of five percent on the issue price (49 euros). Hence with an employer subsidy of at least 25 percent (= 12.25 euros), a public transport discount of 5 percent (= 2.45 euros) is granted. This means that the Deutschlandticket as a job ticket amounts to 46.55 euros when sold. Due to the employer's subsidy of 12.25 euros, the maximum cost to the employee is 34.30 euros per month.

Instead of providing the Deutschlandticket as a job ticket, employers may grant employees subsidies towards their acquisition costs for the Deutschlandticket. Under the conditions of § 3 No. 15 EStG, these could also be tax-exempt.

Federal and state governments are currently struggling over the financing of the 49-Euro-Ticket; therefore, it is unclear if the ticket will be offered permanently. The outcome of the current discussions remains to be seen.

Gibraltar

Tax rate changes:

Effective from 1 July 2023, the tax rates on all bands under both the Allowance Based System and Gross Income Based System will reduce by 1% for anyone earning below £100,000 p.a. (with a maximum effective rate of tax of 26%).

The tax rates will remain unchanged for those earning more than £100,000 p.a.

Employer/Employee Social Insurance (SI) contribution changes:

Employer's SI Contribution has reduced by 1%, however the minimum and maximum contribution amounts due have increased slightly. A full list of changes can be seen below:

- Monthly employee SI increased from £54.17 min to £56.34 and from £159.03 max to £160.33.
- Monthly employer SI increased from £123.50 min to £125.67 and from £218.83 max to £221.00
- Self-employed SI increased from £123.50 min to £125.67 and from £218.83 max to £221.00.

Ireland

Income tax rate updates:

As recently announced in Budget 2024, income tax rates will change from 1 January 2024. The Standard Rate cut off point increased by EUR 2,000 to EUR 42,000. The personal, PAYE, and earned income credit for the self-employed increased by EUR 100 to EUR 1,875 each.

The 4.5% USC rate band will be reduced to 4% from 1 January 2024. In addition to this a small increase in the 2% threshold for USC from EUR 22,920 to EUR 25,760 to reflect the increase to the minimum wage that will take effect at the start of 2024. Full-time employees receiving the minimum wage will continue to be exempt from USC's highest rates due to the expansion of the USC band.

Car BIK:

The temporary relief in relation to BIK on employer provided vehicles has been extended to cover the 2024 tax year. The relief with respect to 2024 will allow for the original market value of the individual's vehicle to be reduced by EUR 10,000.

The relief continues to apply to all vehicles (i.e. cars, vans, electric vehicles) for the 2024 year of assessment (i.e. 1 January 2024 to 31 December 2024), with the exception of cars whose CO2 emissions exceed 179g/km.

Additionally, to encourage the use of electric vehicles for company car purposes, the tapering of the preferential BIK relief for electric cars has been suspended. This means that the existing Original Market Value reduction of EUR 35,000 for the purposes of calculating the BIK charge on electric company cars is maintained for 2024 and 2025.

Enhanced Employer Reporting:

Enhanced Employer Reporting Requirements (ERR) is planned to come into effect from 1 January 2024. It represents a significant expansion of Revenue's requirements on employers from a Real-Time reporting perspective. Subject to a Ministerial Order being signed, from 1 January 2024, all employers will be required to report to the Irish Revenue, on a real time basis, certain payments made by employers to employees. The specific elements to be reported are:

Reportable benefit/reimbursement	Key data to be reported
Small Benefit (i.e. employer provided Vouchers subject to the Small Benefit tax-free exemption)	Value of benefit
Remote working daily allowance	Amount paid The number of days it relates to
Travel and Subsistence Payment	Amount paid per employee across a number of categories: i. Travel vouched; ii. Travel unvouched; iii. Subsistence vouched; iv. Subsistence unvouched; v. Site Based employees (includes "Country Money"); vi. Emergency travel; and vii. Eating on Site.

The reporting will be separate to the existing payroll reporting process via a dedicated ERR section within Revenue's Online System (ROS). The reporting will be on a per-employee basis and will be required to be made in real-time i.e. on or before the date an employee receives a reportable benefit/ reimbursement.

From a practical perspective, there are lots of considerations to be worked through by employers in designing and implementing a new process to capture and report these elements in real-time, further details here. Employers also need to be mindful of the additional data that Revenue will have available to them and Revenue has publicly stated the intent to factor this data into their risk assessment and audit targeting processes. As such it will be important to plan appropriately for the change.

Rented Residential Relief:

A temporary tax relief to primarily benefit small landlords in the Irish housing market will come into effect from 1 January 2024. Subject to certain conditions being met, rental income will be disregarded at the standard rate of tax as per the below:

- EUR 3,000 for the year 2024
- EUR 4,000 for 2025
- EUR 5,000 for the years 2026 and 2027

This relief will result in an additional benefit of EUR 600 to the landlord in 2024, rising to a benefit of EUR 800 in 2025 before rising again to an annual benefit of EUR 1,000 for the landlord in 2026 and 2027. An important condition of this measure is that the properties held by the landlord availing of the relief must remain in the rental market for four years, otherwise the full amount of the relief will be clawed back.

Mortgage Interest Relief:

A one-year Mortgage interest tax relief for homeowners with an outstanding mortgage balance on their primary dwelling house of between EUR 80,000 and EUR 500,000 as of 31 December 2022 has been introduced and will come into effect from 1 January 2024.

Relief will be available in respect of the increased interest paid on the mortgage in the calendar year 2023 as compared with the amount paid in 2022, at the standard rate of 20% income tax. The relief will be capped at EUR 1,250 per property. The relief is available for principal private residences only, it does not apply to mortgages on rental properties.

Italy

Raising of Fringe Benefit threshold:

On 1 August 2023, the Italian Tax Authority ("ITA") issued Circular No. 23/E, which provided long awaited clarifications regarding article 40 of Law Decree 48/2023 ("Decreto Lavoro"). This article provides insight for the raising of the exemption threshold, up to EUR 3,000, for fringe benefits granted by the employer, to employees with children who are tax dependents under Art. 12, para. 2 of the Presidential Decree no. 917/1986 ("TUIR").

Firstly, the circular clarifies that only those who have children who are fiscally dependent, are allowed to include within their fringe benefit basket, reimbursements for electricity, water and gas bills, with the consequence that the ordinary regime for those who do not fall under the above criteria remains in place. It should be noted that the ordinary regime provides for an exemption threshold of EUR 258.23 for the value of any benefit in kind granted in favour of the employee, and that reimbursements for expenses arising from the payment of utilities mentioned above are not included.

Subsequently, the ITA highlights that where the limit of EUR 3,000 is exceeded, the entire value of the fringe benefit granted will be subject to income tax and social contributions, not only the portion of the fringe benefit exceeding the aforementioned threshold, as is already the practice under the ordinary regime. Additionally, this exemption regime also applies in the case that the employee decides to convert a performance bonus paid to him or her, and therefore, to benefit from goods and services made available by his or her employer.

Kenya

Changes to Personal Income Tax (Finance Act, 2023):

The Finance Act, 2023 (the Act) was assented to by the President on 26 June 2023.

In this alert, we provide a summary of the changes to the Income Tax Act ("ITA") with a focus on personal income tax (Pay As You Earn – PAYE). The effective date for these changes is 1 July 2023, unless specified otherwise in the sections herein.

Please note that the High Court issued conservatory orders suspending the implementation of the Finance Act 2023. The analysis in this alert will only be applicable once the conservatory orders are lifted.

Introduction of additional tax bands and increase of the marginal tax rate for individuals:

The Act has introduced two additional tax bands above the current marginal tax rate of 30% i.e., 32.5% applicable to individuals earning monthly incomes between KES 500,000 and KES 800,000, and 35% applicable to individuals earning monthly incomes of more than KES 800,000.

The new rates of tax are as shown below and shall take effect from 1 July 2023.

In view of this change, KRA will be required to roll-out new tax return templates for employers and employees for purposes of submitting returns and making the correct tax payments for the period starting July 2023.

Employers will also be required to update their payroll systems to align with the new PAYE rates effective July 2023. Given the percentage of employees in Kenya who earn KES 500,00 or more per month, this change will result in a slight increase in PAYE revenue for the government. The net take home pay for the affected individuals is expected to reduce.

Introduction of the Affordable Housing Levy:

The Act has amended the Employment Act, 2007 to introduce a new section 31B that provides that employers will be required to deduct and remit an Affordable Housing Levy at:

- 1.5% of the employee's gross monthly salary for the employee; and
- 1.5% of an employee's gross monthly salary for the employer.

Employers will be required to remit the levy no later than 9 working days after the end of the month in which payments are due. Late remittance will attract a penalty of 2% of the amount due for each month the payment remains unpaid. The Act has not specified the authority to whom the affordable housing levy will be paid and the regulations supporting its administration.

Tax free treatment of an amount received by an employee from their employer as mileage reimbursement:

Employers who pay employees mileage reimbursements at the standard mileage rate approved by AA Kenya will not be required to assess a taxable benefit on the receiving employee. However, any excess mileage reimbursements to staff based on rates that are higher than AA Kenya rates will be taxable on the employees.

Tax treatment of club entrance and subscription fees paid by an employer on behalf of an employee:

Club entrance and subscription fees shall be treated as taxable income on the employee to the extent that the expense has been allowed against the employer's income. This is to avoid the incidence of double taxation of club entrance and subscription fees on both employers and employees.

Taxable Amount Annual (Shs.)	Taxable Amount Monthly (Shs.)	Tax Rate
0 - 288,000	0 - 24,000	10%
288,000 - 388,000	24,000 - 32,333	25%
388,000 -6,000,000	32,333 - 500,000	30%
6,000,000 - 9,600,000	500,000 - 800,000	32.5%
9,600,000+	800,000+	35%

Amendment to the definition of market value in relation to an employee share ownership plan:

The Act has sought to amend Section 5(6)(c) of the ITA to read as follows: "market value", in relation to a share, means:

a. where the shares are fully listed on any securities exchange operating in Kenya, the mid-market value on the date the option was exercised by the employee; or

b. where the shares are not fully listed, the price which the shares might reasonably be expected to fetch on sale in the open market, when the option is exercised.

These changes are meant to align the tax point for equity-based compensation to the date of exercise.

Introduction of tax relief on post-retirement medical fund contributions:

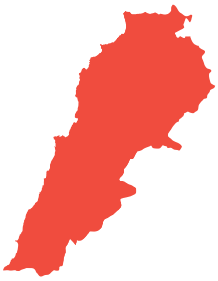
Resident individuals making contributions to a post-retirement medical fund will be entitled to an additional tax relief in addition to the reliefs already provided for under the ITA including personal relief and insurance relief.

The amount of post-retirement medical fund relief shall be 15% of the amount of contribution paid or KES 60,000 per annum, whichever is lower. The effective date for this change is 01 January 2024.

Tax exemption for non-resident individuals working for development partners in Kenya:

The Act has amended the First Schedule of the ITA to introduce tax exemption on income earned by a non-resident contractor, sub-contractor, consultant or employee involved in the implementation of a project financed through a 100% grant under an agreement between the Government and the development partner, to the extent provided for in the Agreement.

The exemption shall be valid only if the non-resident is in Kenya solely for the implementation of the project. This change will enhance cooperation between the Government and international development partners.



Lebanon

Exchange rate updates:

The Ministry of Finance (MoF) issued Decision no. 1/2 dated 9 January 2023 regarding the application of Article 35 of the Budget Law 2022. In addition, the Minister of Finance and the Governor of the Central Bank of Lebanon issued Decision no. 1/3 on 9 January 2023 to determine the “actual value” in Lebanese Pounds for salaries paid in foreign currencies. The summary of these decisions is presented as follows:

The actual value of salaries and benefits subject to tax on salaries paid in cash/fresh USD is determined as follows:

- Starting 1 January 2022 up to 14 November 2022, based on an exchange rate of LBP 8,000 / 1 USD.
- Starting 15 November 2022 onwards, based on an exchange rate of LBP 15,000 / 1 USD.

In the case that the salaries are paid by cheque or local bank transfer within Lebanon, then the actual value of the salaries up to USD 3,000 are determined based on an exchange rate of LBP 8,000 / 1 USD. Any additional amounts are calculated based on the rate of LBP 1,507.5 / 1 USD.

Allowance updates:

Decree No. 11224 published on 26 April 2023 relates to the amendment of the transportation allowance for the employees of the private sector and the employees of public institutions subject to the provisions of the Labour Law as stipulated in article 1 of Law no. 217 dated 30 March 2012.

The employees’ transportation allowance will be amended and increased from LBP 95,000 to LBP 250,000 for each working day (i.e. actual office attendance).
The decree is effective once it is published (i.e. effective 26 April 2023).

Decree No. 11228 published on 26 April 2023 relates to the increase of the schooling allowance for the academic year 2022-2023. Each employee can benefit from a schooling allowance on his/her children as per the below:

- Public schools, free schools, institutions for special needs and The Lebanese University: LBP 3,000,000 (with a maximum of LBP 9,000,000 in total).
- Private schools or private universities: LBP 6,000,000 (with a maximum of LBP 18,000,000 in total).

Cost of living allowance & increase of minimum wage:

Decree No. 11226 published on 26 April 2023 relates to the increase of the cost of living allowance and the increase of the minimum wage of the employees subject to the Labour Law effective from the date this Decree is published, as follows:

- All employees subject to the Labour Law receive an increase of LBP 4,500,000 as a cost of living allowance;
- The minimum monthly basic salary is increased to LBP 9,000,000;
- The minimum daily basic salary is increased to LBP 410,000.

Decree no. 11343 published in the official gazette on 8 June 2023 amended the first article of Decree no. 11226 to increase the high cost of living allowance of all employees subject to the Labour Law to LBP 6,400,000 instead of LBP 4,500,000. The decree is effective once it is published in the official gazette (i.e. 8 June 2023).

Memorandum no. 711 issued on 13 June 2023 addressed the application of Decree no. 11343 which increased the high cost of living allowance for all employees subject to the Labour Law to LBP 6,400,000 instead of LBP 4,500,000 as of 26 April 2023.

Sickness & Maternity social security contribution updates:

The Lebanese Parliament, based on a proposal from the Minister of Labour and in accordance with a decision from the Indicator Committee, has enacted Decree No. 11928. This decree, published in the Official Gazette on 24 August 2023, brings about an increase in the annual ceiling amounts for sickness and maternity social security contributions, now set at LL 216,000,000 per year (equivalent to LL 18,000,000 per month). The Decree will take effect from the month following its publication in the Official Gazette, which is September 2023.

Foreign social security contributions for salaries paid in foreign currencies update:

The National Social Security Fund issued Memorandum no. 714 dated 5 September 2023, which pertains to the settlement of social security contributions for salaries paid in foreign currencies. According to this memorandum, these contributions should be settled in Lebanese Pounds, and their value should reflect the actual exchange rates, as outlined in Article 35 of the 2022 Budget Law and Decisions no. 1/2 and 1/3 (LBP 8,000 from 1 January until 14 November 2022 and LBP 15,000 from 15 November 2022 onwards).

Luxembourg

New types of extraordinary leave:

From 21 August 2023, two new forms of extraordinary leave have been introduced: leave for reasons of force majeure and caregiver leave. As a result, the employee is entitled, with retention of his/her salary, to:

- 1 day per 12-month period of employment for reasons of force majeure related to urgent family reasons in the event of illness or accident making the immediate presence of the employee essential; and
- 5 days over a 12-month occupancy period to provide personal care or assistance to an immediate family member or a person living in the employee's household and who requires, among other things, considerable care or assistance for a serious medical reason that reduces their ability or autonomy or does not allow them to cope independently with physical, cognitive or psychological disabilities.

This leave is divisible for a full-time employee. For part-time work, leave is granted in proportion to the employee's working time.

The employee must inform their employer of their absence as soon as possible on the same day and, for the caregiver leave, must submit, at the latest on the third day of their absence, a medical certificate attesting to the conditions fixed by law while proving the family bond or the address of the assisted person as the case may be.

The employer has 6 months to request reimbursement from the State of 50% of the basic salary declared to the "Centre Commun de la Sécurité Sociale" (capped at 5 times the unskilled minimum social wage) and of the related employer's social contributions for the days of leave taken.

The application must be submitted via the platform MyGuichet that will be open for this purpose unless it is proven that the employer cannot proceed electronically.

The employer may not notify a dismissal (or summon in writing to a prior interview when applicable) on the ground that the employee has requested or benefited from such leave.

Flexible working arrangements:

New flexible working arrangements come into place on 21 August 2023. An employee with a continuous seniority of 6 months, and:

- who has a child under 9 years; or
- who must provide personal care or assistance to a member of their family or a member of the household in case of serious illness (same conditions as for the new caregiver leave described above), is entitled to an interview with their employer to request a flexible working arrangement for a maximum of one year.

The employer must reply to this request within one month and give reasons for its refusal or postponement by registered letter with acknowledgement of receipt.

Flexible working arrangements mean an adjustment of working time, for example by using telework and/or a reduction in working time or flexible working hours. The employee returns to his/her original work schedule at the end of the agreed period.
The employer must either keep the employee's job or at least offer a similar job with equivalent pay.

The employer cannot dismiss the employee on the ground that he/she requests a flexible work arrangement or that he/she has benefited from it. Nor can the employee be subjected to reprisals or less favourable treatment.

The employer is liable to a fine of EUR 251 to EUR 2500 if they do not comply with the relevant obligations.

Changes to paternity leave and adoption leave:

From 22 August 2023 paternity leave, which remains 10 days in the event of the birth of a child, is now extended to self-employed workers and to the person recognized as second parent as soon as the concerned parent authorises them to establish the filiation in respect of the child without having to resort to the adoption procedure.

As for the 10-day reception leave, the law now states that it can be taken either from the date of the adoption or from the effective date of the child's move-in.

Such leave may be divided up for an employee working full-time and must be taken within two months of the birth or taking effect of the adoption or actual move-in of the adopted child in the employee's household. Leave is granted on a pro rata basis for part-time work.

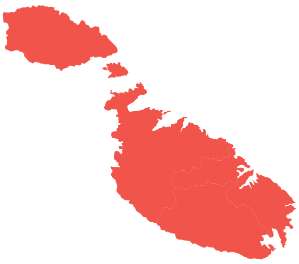
This leave is taken according to the employee's desire unless it is in opposition with the needs of the company. In the absence of agreement, the leave must be taken at once and immediately after the birth of the child or the effective date of the adoption or the move-in of the adopted child. The notice period to advise the employer is two months (not applicable in case of early birth).

Finally, the employer or the self-employed worker has 5 months from the dates listed above to request electronically the reimbursement of the leave via MyGuichet. This reimbursement of 100% of the basic salary (limited to the social security ceiling) and the related employer's social contributions will take place from the 17th hour of leave.

Changes to parental leave:

Also from 22 August 2023, employers who wish to refuse one of the flexible forms of parental leave (split or part-time) must justify it in writing by notifying the employee by registered letter with acknowledgement of receipt within two weeks of the application and must also invite the parent to an interview within two weeks of such notification.

Similarly, the employer who decides to postpone the second parental leave (which can be taken until the child is 6 years old) must also give reasons for its refusal and must have proposed, as far as possible, another form of parental leave before deciding to postpone the parental leave.



Malta

Amendments to the Employment and Industrial Relations Act:

The Employment and Industrial Relations Act (Chapter 452 of the Laws of Malta) (the “Act”) has been updated to provide further clarity regarding the duration of probationary periods for fixed-term contracts of employment. The Act provides that probation periods should be proportionate to the length of the employment duration and further provides specific timeframes of probation, depending on the contract duration.

In brief, the Act provides the following stipulations with respect to probation period for fixed term contracts:

- In the case that a fixed term contract is shorter than 6 months (if justified in terms of law), probation should be for 1/3rd of the duration of the contract;
- In the case that a fixed term contract is between 6 months and 15 months, probation should be calculated on the basis of 2 months for every 6 month period of employment;
- In the case that a fixed term contract is longer than 15 months, probation should be for a 6 month period
- This being said, it should be noted that in the case of employees holding technical, executive, administrative or managerial positions & whose wages are at least double the national minimum wage established that year, probation may be for a period of 12 months.
- Parties may agree to shorter probation periods than those prescribed in terms of law.
- Please note that the above is intended merely as an indicative guideline and that each case should be analysed on a case by case basis.
- The Act provides that fixed term contracts should not be shorter than 6 months in duration, unless it is justified by objective reasons based on circumstances characterising the activity concerned, which should be included in the employment contract.

Exempt pension income:

Certain pension income will gradually no longer be considered as part of the chargeable taxable income, subject to a capping.

According to current laws, the exemption applies as follows:

- Basis year 2022, 20% of pension income, subject to a capping of €2,864
- Basis year 2023, 40% of pension income, subject to a capping of €5,987
- Basis year 2024, 60% ofpension income, subject to a capping of €8,981
- Basis year 2025, 80% ofpension income, subject to a capping of €11,974
- Basis year 2026 and subsequent years, 100% of pension income, subject to a capping of €14,968

Guidelines in relation to the tax exemptions for Investment Services or Insurance Expatriates:

Guidelines were issued in relation to qualifying individuals working for or providing services to an Investment Services Company, or an Insurance Company. Such individuals may elect not to be taxed on a number of fringe benefits which would otherwise be taxable, subject to certain conditions and compliance obligations.

The qualifying individual should be either:

- An "investment services expatriate" who is an employee of, or provides services to an investment services company holding an investment service licence issued under the Investment Service Act, or a company which is recognised by the relevant Competent Authority for the purposes the Investment Services Act and whose activities should solely comprise of the provision of management, administration, safekeeping or investment advice to collective investment; or
- An "insurance expatriate", being an employee of, or provides services to, an insurance company as defined.

An Investment Services Expatriate or an Insurance Expatriate has to satisfy the above-mentioned conditions, and either:

- is not ordinary resident and not domiciled in Malta; or
- was not resident in Malta for a minimum period of three years immediately preceding the year in which he commences such employment with or provides services to any investment services company or insurance company as aforesaid and provided that during the said three years such individual has been engaged on a full-time basis in a similar position outside Malta.

Qualifying expatriates opting to benefit from such tax exemption should attach a specific form to one’s Maltese income tax return, which form should be endorsed by the employing entity. Furthermore, the exempt income should be specifically disclosed on one’s income tax return.

Increase in rate of interest:

The interest rate for late income tax payments was increased to 0.6% (from 0.33%) per month, for payments due by 31 August 2022 onwards. The interest rate on late payments of tax refunds due by the Commissioner was also increased to 0.6% as from 1 September 2022.

Netherlands

Working from home and shift in income taxes to home country:

During the COVID-19 crisis, the Netherlands made separate agreements with Germany and Belgium to prevent the tax liability from shifting from the country of work to the country of residence as a result of working from home. These agreements also applied to employees who live in the Netherlands, but work in Germany or Belgium. These agreements expired on 30 June 2022. The Parliament has urged the government to (re)enter talks with Belgium and Germany to make new agreements with regards to working from home, in the bilateral tax treaties that the Netherlands has agreed upon with these countries. The Parliament has noted that France and Switzerland, Belgium and Luxembourg and Germany and Luxembourg have agreed to include provisions to avoid a shift of taxation as a result of working from home from 1 January 2024.

Legal framework cross-border teleworkers for social security:

Contrary to the tax obligation, a framework agreement at EU level for social security was agreed that came into force on 30 June 2023 that replaced the ‘no impact policy’ for social security purposes of temporarily working from home during the COVID-19 crisis. This agreement meets the desires of employees and employers to be able to work partially from home without a shift of the social security to the home country of the employee. Currently, nineteen member states including the Netherlands have signed the agreement. Based on the agreement, cross-border workers can work from home for up to 50% of their time without being subject to the social security regime of that country.

Please note that the Framework covers cross-border teleworkers. Telework is defined as a form of organising and/or performing work, using information technology, in the context of an employment contract/ relationship, where work, which could also be performed at the employer’s premises, is carried out from any location all over Europe and it is thus completely location-independent. This distinguishes telework from all other activities that require or imply the work activity to be carried out at a certain place.

New system for tax interest from 2024:

On Budget Day, the Dutch cabinet revealed in a parliamentary letter that a revamped system for determining tax interest rates will be implemented starting from 1 January 2024. Going forward, interest rates will be updated annually, based on the latest European Central Bank (ECB) interest rate published as of 31 October of the preceding year. These new rates will become effective from 1 January of the subsequent year, with the first instance being 1 January 2024.

The tax rate for income tax, payroll tax, VAT, dividend tax is set at the ECB rate for main refinancing operations, plus 3 percentage points, rounded to half percentage points and with a minimum of 4.5 per cent. The expected rate as of 1 January 2024 is 7.5 per cent.

The final rates will become available only after the European Central Bank re-sets the ECB interest rate on 31 October 2023.

For personal income tax and corporate income tax, the period during which tax interest is calculated begins six months after the conclusion of the calendar year or financial year to which the tax is applicable. For VAT and wage tax, tax interest is charged on any additional assessments imposed by the Tax Authorities, which occurs when it is determined that insufficient VAT or wage tax has been declared and paid.

CO2 (mobility) reporting requirement:

Employers with 100 employees or more are required to annually provide data about the employees’ business travel and commuting (work-related mobility). This data should provide an insight into CO2 emissions, with a concrete reduction target of 1.5 megatons of CO2 in 2030.

Meanwhile, a handout has been published on the website of the Netherlands Enterprise Agency (in Dutch ‘Rijksdienst voor Ondernemend Nederland’). This handout gives clarity on what data should be collected and reported, and how this should be done. As data must be collected over the period starting 1 July 2023 from 1 January 2024 (and to be first report to be submitted 30 June 2024), employers only have a few months left to make the adjustments. The handout on the Netherlands Enterprise Agency website also provides several practical methods on how to collect the data.

Rate updates from 1 January 2024 following Budget Day:

The tax-free travel allowance will increase from EUR 0.21 (2023) per business and commuting kilometre to EUR 0.23 per business and commuting kilometre.

The budget of the work-related costs regulation (WCR) has been decreased. The budget over the first EUR 400,000 of total wages will decrease to 1,92% (3% in 2023) in 2024. On the remainder, a budget of 1.18% will be applicable. The decrease of the budget will have a direct effect on the tax free allowances and provisions an employer can pay out to its employees.

From 1 January 2024, the 30% ruling can be applied up to a maximum of the WNT norm (2024: EUR 233,000). However, for expats who are already utilising the 30% ruling in 2022, this capping will not come into effect until 1 January 2026.

Norway

Changes in the pension tax rules:

The special tax deduction for pension income (the pension tax deduction) and the associated thresholds for reduction of the deduction has been adjusted based on the increase in wage and price growth. The Norwegian government has increased the threshold for step 1 of the reduction from NOK 219,950 to NOK 246,800. In 2023, the deduction has been completely phased out at an income of NOK 567,650, and with the reduction of the threshold, the deduction is therefore tapered down towards a smaller share of the pension income, so that the deduction is higher.

This gives a tax relief of around NOK 4,500 for those who have a pension above the new threshold and up to the current threshold for step 2. In isolation, this implies a higher taxation of low pension income since the rate for reduction of the deduction is higher than for step 2 (16.7% and 6%, respectively). To direct the tax relief towards low pension income, the threshold for step 2 is also increased from NOK 331,750 to NOK 373,650.

Increased cost rates for commuters and long-distance drivers:

The Norwegian government has changed the commuter deduction rate for extra costs incurred in staying at barracks, boarding houses and bedsits, without cooking facilities from NOK 177 per day to NOK 250. The rate for long-distance drivers has changed from NOK 300 to NOK 350. The changes are in effect as of 1 September 2023.

Poland

Minimum wage increase:

From 1 July 2023 the minimum wage in Poland was increased from PLN 3,490 to PLN 3,600. It has been announced there will be a further increase in the minimum wage. Starting from 1 January 2024, the minimum wage will amount to PLN 4242 (from January 2024) and then to PLN 4300 (from July 2024).

Tax reliefs for families:

Some changes in favour of the taxpayers applying tax reliefs were introduced starting from 1 July 2023. Possibility of applying a pro-family relief by taxpayers raising a child with disability is no longer reserved for those with annual income lower than PLN 112,000 (in case of spouses filing jointly) or PLN 56,000 (in case of an individual tax return). Also a wider circle of family members (grandchildren and grandparents) is recognised when applying the rehabilitation relief.

Changes to private rental income:

Preferential rules for spouses receiving a private rental income were introduced as of 1 July 2023. Private rental income in Poland is taxed at 8.5% (for revenues up to PLN 100,000 PLN annually) and at 12.5% (once the amount is exceeded). Until now, the income limit of PLN 100,000 applied to both spouses (filing jointly). From July 1, each of them can benefit from their own "pool", which means that the total income limit for spouses amounts to PLN 200,000.

Increased audits:

Apart from above mentioned legislative changes, both companies and individual taxpayers in Poland may be challenged by tax authorities in the upcoming months – as we have noticed the significant number of tax audits started recently. Tax inspectors tend to focus mainly on the companies applying preferential tax regimes (e.g. creative employees transferring copyrights to their employees) and on the taxpayers benefitting from newly introduced tax reliefs, which were applicable for the first time in tax returns filed for the year 2022.

Portugal

Withholding tax mechanism updates:

A new withholding tax mechanism for resident individuals was introduced from 1 July 2023, to approximate the Personal Income Tax (PIT) withholdings to the annual PIT assessed upon the submission of the annual tax return. This new mechanism also avoids situations of regression, i.e., decreases in the employees' net monthly remuneration, resulting from increases in their gross monthly remuneration.

Teleworking:

From 1st October 2023, an update came into force defining the value of the Personal Income Tax (IRS) and Social Security exemption for amounts paid to compensate for expenses incurred in teleworking.

The diploma establishes that the daily exemption limit is €1/per day, broken down as follows:

- Residential electricity consumption: €0.10/day
- Consumption of personal internet: €0.40 / day
- Computer or equivalent personal IT equipment usage: €0.50 / day

The limits set out in the previous paragraph are increased by 50% when the value of compensation results from a collective work regulation instrument signed by the employer.

The exemptions set out above are only applicable to full days of teleworking, actually provided and which result from a written agreement. A full working day is considered to be one in which work is carried out remotely, through the use of information and communication technologies, in a location not determined by the employer, for periods of no less than one-sixth of the weekly working hours.

Internships:

The income arising from internships established under the Decree-Law n.º 66/2011 has become liable to social security contributions from 1 May 2023.

Share Plans:

In May 2023, a new tax regime for share plans was introduced. The new rules provide that gains derived from share plans (and others of equivalent effect), created for the benefit of the employees or Board Members, can, as a general rule, be taxed on only 50% of their value and at a rate of 28 %. The new regime also solves an old problem in the taxation of this type of plans, which was related to the moment in which the taxation would occur, now allowing a deferral of the same for the first of the following moments:

- Disposal of securities or similar rights acquired through the exercise of the option;
- Ceasing of tax residency in Portugal by the employee;
- Free transfer of securities or similar rights.

In practice, the new regime allows that, as a rule, employees are only taxed when they actually make the gain, which is subject to an effective tax rate of 14% (a rate of 28% on 50% of the gain).

It is, however, important to note that, in order for employees to benefit from this regime, there are some requirements that must be met. First, the be plans must be attributed by entities (including startups) that, in the year prior to the creation of the plan:

- Comply with the legal requirements to qualify as a micro, small or medium-sized company or as a small-medium capitalisation company; or
- Develop their activity within the scope of innovation.

Then, the application of this taxation regime also depends on the maintenance, by the employees, of the rights underlying the securities that generate the gains, for a minimum period of one year.

Some restrictions may apply to shareholders and also Board Members. A case-by-case analysis is required in order to assess the eligibility for this special tax regime.

2024 State Budget Proposal:

The proposal for the 2024 State Budget Act was presented on 10 October by the Government. Thus, we summarise below the main proposals present that may potentially impact the companies and employees, if approved. In any case, please note that this is still a proposal, which will be discussed in detail in the Parliament and approved at the end of November to enter into force on 1 January 2024. During this discussion, changes may be introduced.

- The limits of each bracket of the PIT table of general rates shall be updated by 3%. There will also be an update to the rates applicable up to the fifth bracket.
- The benefits granted under the Youth PIT ("IRS Jovem") regime will once again be reinforced through an increase of the percentages of exempt income and applicable caps.
- An exemption from taxation (provided certain conditions are met) is created for the benefit in kind arising from the provision of housing by companies to their employees, applicable between the beginning of 2024 and the end of 2026.

- The reductions applicable to the per diems and compensation for the use of own car at the service of the employer for public servants are eliminated, and, consequently, the amounts excluded from taxation are revised.
- As a transitional measure to be in force for the year 2024, an exemption, with progression, is foreseen, up to a limit of 4,100 Euros, of the amounts attributed to employees as profit sharing. This exemption will depend on the employer increasing by at least 5% in average the fixed remunerations per employee, with reference to 2024.
- Changes are also proposed to be introduced to the new tax regime applicable to gains derived from share plans, identified above.

NHR:

It is proposed to revoke the Non-habitual Resident (NHR) regime. However, the regime will continue to apply to individuals who:

- Are already registered as NHR with the Portuguese Tax Authorities when this law comes into force (which should occur on 1 January 2024) and until the end of the 10-year period provided for by the regime; or
- By 31 December 2023 meet the conditions for registration as NHR, or hold a residence visa valid on that date, and register as NHR by 31 March 2024.

New tax regime for qualified workers:

A "tax incentive to scientific research and innovation" is created for individuals who become tax residents in Portugal, have not been resident in Portuguese territory in any of the previous five years and earn income that falls within:

- Careers of higher education teachers and scientific research, integrated within the national science and technology system;
- Qualified jobs within the scope of contractual benefits for productive investment, in accordance with specific legislation;
- Research and development jobs, for personnel with minimum PhD educational qualifications, under certain conditions.

This regime provides for:

- a special rate of 20% on the net employment and self-employment income arising from the above activities, during 10 consecutive years;
- an exemption on income from employment, business and professional income, investment income, rental income and capital gains obtained abroad.

Individuals who benefit or have benefited from the NHR regime or the regime for "former residents" cannot benefit from this regime.

Former tax resident regime:

The following changes are made to the "former residents" regime:

- The regime, which ends in 2023, has been extended to taxpayers who become tax residents in Portugal until 2026;
- The exclusion from taxation of 50% of employment, business and professional income (regardless of the activity performed) provided for in the regime is now limited to 250,000 Euros;
- It is established that, to benefit from the regime from a given year onwards, individuals cannot have been tax residents in Portugal in any of the previous 5 years (instead of the current 3 years).
- It is no longer required as a condition to benefit from the regime that you have previously been a tax resident in Portugal. Although the regime is aimed at "former residents", it appears to be available to taxpayers who have never qualified as residents in Portugal.

Given this last point, individuals who will only move to Portugal in 2024 onwards (therefore not being able to benefit from the NHR regime), may consider to avail of this regime.

Slovakia

Daily allowance increases:

Daily allowances will increase in Slovakia again from 1st October 2023, for the third time in 2023. The changes in value of allowances reflect continuous inflation and price increases in restaurants.

The updated rates are as follows:

- Business travel 5 – 12 hours - EUR 7.80
- Business travel 12 – 18 hours – EUR 11.60
- Business travel over 18 hours – EUR 17.40

The daily allowances impact also the minimum amount of meal allowance and the minimum mandatory employer's contribution to meal voucher and meal allowance, as well as travel allowances during domestic business trips.

The updated rates are as follows:

- The minimum value of meal vouchers will be EUR 5.85 (75% of EUR 7.80 - per diems are applicable for business trips 5 – 12 hours long).
- The minimum mandatory employer's contribution to a meal voucher or meal allowance is EUR 3.22 (55% of EUR 5.85).
- Tax deductible expenses (under the conditions set out in the Labor Code) allow meal expenses of at least 55% of the price of food, up to a maximum at 55% of the meal allowance for a business trip lasting from 5 to 12 hours, i.e. a maximum of EUR 4.29.

South Africa

Non-resident employers update:

National Treasury has introduced the latest Draft Tax Administration Laws Amendment Bill, 2023 on 31 July 2023 which seeks to broaden the definition of employers to include non-resident employers with the intention that both resident and non-resident employers must deduct employees' tax (PAYE) from the remuneration payable to employees rendering services in South Africa (SA).

As the law currently stands, only a SA resident employers or representative employers (where the employer is not resident in SA, any agent of such employer in SA having authority to pay remuneration) is obligated to deduct employees' tax (i.e. there is currently no obligation on non-resident employers to deduct employees' tax on remuneration paid to employees in SA).

The reason for the proposal is that with the recent change in working environment, many employees who work remotely have not been submitting tax returns in SA and the South African Revenue Service (SARS) often has no record of individuals who have avoided paying income tax. With the proposed changes, all employers will have an onus to withhold employees' tax from remuneration paid to employees in SA and ensure that the correct tax certificates are issued by the designated deadlines, which in turn will require employees to submit their annual individual tax returns. SARS can thus monitor when employers and/or employees have failed to declare their taxes correctly and take the appropriate action in the form of penalties and interest.

Whilst the proposed changes may make sense theoretically, they raise many questions from a practical perspective. These have been fed back to National Treasury and SARS by way of formal representations in respect of the draft legislation to obtain further guidance regarding the proposed changes as well as to point out potential challenges foreign employers will face should the legislation come into effect. At this stage, we are awaiting feedback from the National Treasury as to whether they will push forward these proposals and, if they do, what the effective date of the change will be.

Spain

Special Tax Regime:

From January 2023 there has been changes to the special expat tax regime, commonly known as “Beckham Law”, which introduces new scenarios and reduces the requirements to apply for the regime. In principle:

- In order to apply for the Regime, the individual cannot qualify as Spanish tax resident in the 5 years previous to the arrival to Spain. Up until recently, this period was 10 years.
- There is extension of the subjective scope of application to the regime. The new Startup Law gives access to the regime to digital nomads. The extension of scope also applies to directors of Spanish entities, those who render an entrepreneur activity in Spain, highly qualified professionals and family members of the applicants.

While the changes to the regime have been in force since January 2023, the process to apply for the regime under the new scenarios has not yet been approved. Therefore, there is no option currently to apply for the regime under the new scenarios.

The Authorities have published a message in their web page indicating that as soon as the Regulation is approved, it will be possible to apply. We expect the regulation to be approved imminently.

Temporary Solidarity Tax on Large Fortunes:

For Fiscal Years 2022 and 2023, the Solidarity Tax on Large Fortunes was introduced. This tax was configured as a complementary tax to the Wealth Tax specially for those territories where Wealth Tax is 100% exempt (Andalusia and Madrid). The taxable event is the ownership by individuals of a net wealth of more than EUR 3M.

It is pending an imminent decision from the Constitutional Court in this regard (our expectations are that the Court will decide within the coming months). If the Court decides that this tax is illegal, there should be an option to request the refund of the taxes already paid plus interest.

Carried interest and the binding rule published by the General Directorate of Taxes:

With effect from January 2023, a new regulation considers carried interest as employment income, establishing a favourable tax regime based that only 50% of the income obtained will be taxed, provided that certain requirements are met.

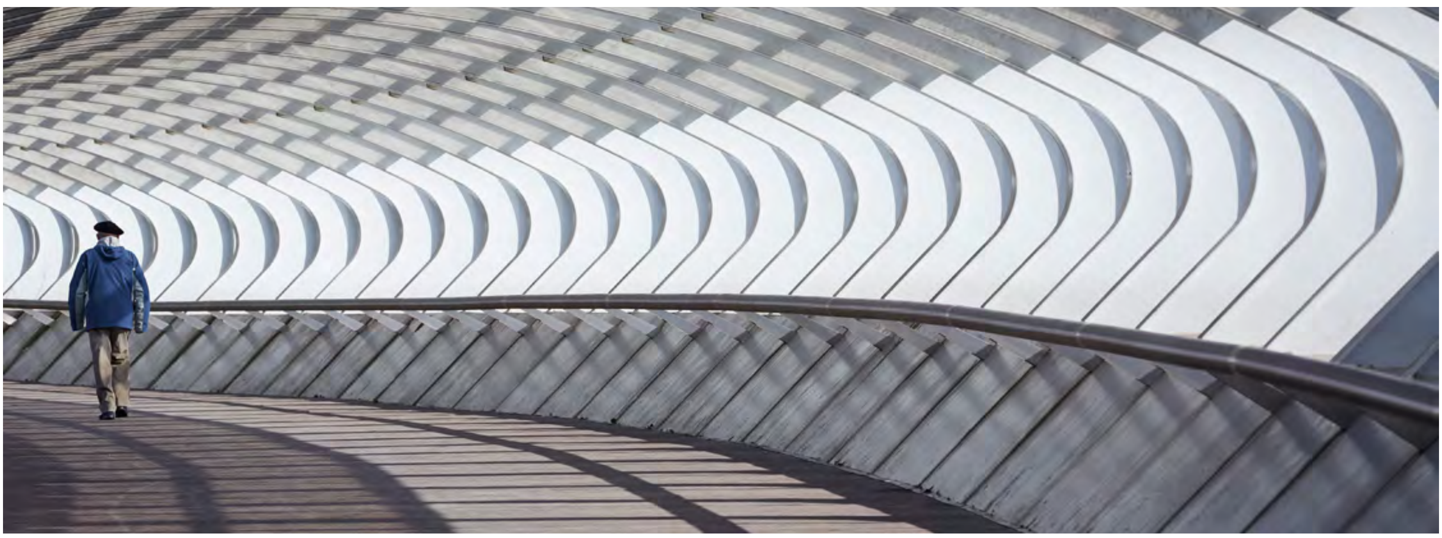
There was a new binding rule published in July 2023 by the General Directorate of Taxes where some points were clarified, in particular:

- Carried interest distributions obtained before the five years of holding have elapsed, will not prevent the application of the regime as long as the shares are maintained throughout the five-year period.
- Withholdings must be made only on the 50% of the employment income that is taxable.
- For directors under a mercantile relationship, the withholding rate will be 35%, and for the rest of the employees, the corresponding personal income tax withholding rate will apply.

Social security contributions update:

The base to calculate the employee’s Social Security contributions for Fiscal Year 2023 was 4,495.50 EUR.

The new legislation for Fiscal Year 2024 includes an increase in the maximum contributions base with the Consumer Price Index (CPI) plus a fixed amount of 1.2% points each year of the period 2024-2050.



Switzerland

Swiss social security reform (OASI21):

On 25 September 2022, the OASI21 reform was approved by the people and cantons, thereby securing the financing of the OASI state pension regime for approximately the next decade. The reform will come into force on 1 January 2024. Both the amendment to the OASI Act and the federal decree on the additional financing of the OASI through an increase in value added tax (VAT) was adopted. Some highlights of the reform are:

- The finances of the OASI and the level of pension benefits should be secured for the next ten years.
- The pensionable age (now called "reference age") for women and men will be standardised at 65, with the retirement age for woman incrementally increased over the period 2025 – 2028 from 64 to 65.
- Overall retirement will be made more flexible with retirement possible in any month between the ages 63 and 70.
- In future, retirement will be possible on a sliding scale e.g. Part of the pension can be with-drawn early or deferred.

Telework: Addendum to the double tax treaty with France:

Currently, there is still no general requirement in Switzerland that home-office days must be mentioned on the annual salary certificates. However, once the recently signed addendum to the double tax treaty with France with regards to cross-border employees enters into force, employers will be obliged to submit the number or percentage of home-office days per annum to the French tax authorities. The addendum still needs to be ratified by both parliaments before coming into force. In the interim, the temporary memorandums of understanding related to the DTA-F dated 22 December 2022 will continue to apply until 31 December 2024.

As a reminder, since 1 January 2023 the two memorandums of understanding with France, permit French cross-border employees to physically perform up to 40% of their work in their home-office in France without a change of their income tax status as cross-border workers. This understanding remains in force until 31 December 2024, at the latest or until the addendum to the double tax treaty enters into force.

These changes have still not led to a change in reporting obligations under the Swiss salary certificate.

However, under this new regime the obligation to calculate the correct withholding tax (if a deduction must be made) excluding foreign work days must be ensured. From a social security perspective, employers are recommended to keep track of their employees' home-office days to be able to determine the correct social security regime and respective A1 certificate (if applicable).

New cross-border commuter agreement with Italy:

The new cross-border commuter agreement with Italy entered into force on 17 July 2023 and will be applied as of January 2024. This brings some changes for employers with Italian cross-border commuters in the cantons Ticino, Wallis and Grisons. There will be a distinction between existing and new cross-border employees as follows:

- Existing cross-border employees will be taxed at ordinary withholding tax rates
- New cross-border employees will be taxed at new withholding tax tariff codes, and will only be taxed on 80% of their Swiss income. Double taxation is then mitigated through the Italian tax system.

Tanzania

Skills development levy rate update:

The Skills and Development levy rate has been reduced from 4% to 3.5% effective as of 1 July 2023.

Türkiye

Monthly minimum wage increases:

The monthly minimum wage has increased to TRY 13.414,00 (from TRY 10.008,00) as of July 2023.

A monthly base on income subject to social security premiums of TRY 13.414,00 and ceiling of TRY 100.608,90 applies for 01/07/2023 - 31/12/2023.

Base and ceiling amounts have been updated according to the changes in the minimum wage (the base equal to 1/30th of the monthly minimum wage, and the ceiling amount is 7.5 times the minimum wage).

United Arab Emirates

End of service gratuity

The United Arab Emirates (UAE) government has recently unveiled a new employee savings scheme (Scheme) which will be introduced as an alternative to the historic end of service gratuity (ESG) benefit.

The Scheme is set to apply to both private and public sector organisations located in mainland UAE, as well as all free zone companies (with the exception of those operating in the Dubai International Financial Centre (DIFC) and the Abu Dhabi Global Market free zones).

The current ESG benefit requires employers to provide eligible employees with a lump-sum statutory payment on termination of employment, provided that they have completed at least one year of continuous service. This is calculated with reference to an employee's final basic salary at the time of termination, having consideration to their overall length of service.

Qualifying UAE nationals are generally enrolled in the state pension scheme, administered by the General Pension Social Security Authority (GPSSA). Monthly social security contributions are paid to the GPSSA. The rates of contribution differ based on which Emirate the employee is employed in, and whether it is a government or private sector company. Other GCC nationals working in the UAE are also eligible to receive social security contributions, subject to the applicable rates stipulated in their respective home country.

To date, there has been no formal legislation released on the Scheme however, we understand that:

- The Scheme will be optional for employers to participate in. Whether the Scheme later becomes mandatory remains to be seen.
- The Scheme is open to all types of working arrangements and to employees of all levels.
- Employers opting to participate in the Scheme will be required to make monthly periodic contributions on behalf of their eligible employees.
- The Scheme contributions are anticipated to align with the existing accrual rates within the current ESG framework.

The Scheme is intended to introduce three distinct investment options for participants, including a risk-free investment to protect the principal amount, a risk-based investment with varying risk levels (low, medium, high), and a sharia-compliant investment option. This is a similar approach to that of the current DIFC Employee Workplace Savings Scheme (otherwise known as DEWS).

The primary objective behind this initiative is to safeguard employee savings and promote secure investment. Oversight of the program will be managed jointly by the Securities and Commodities Authority in collaboration with the Ministry of Human Resources and Emiratisation, ensuring the protection of investment savings.

The Scheme offers promising potential to reshape the landscape of employee benefits in the UAE, fostering a more secure and attractive work environment for all stakeholders involved.

Further details and legislation concerning the Scheme are expected to be released shortly.

United Kingdom

UK Budget – Autumn Statement:

The Chancellor of the Exchequer, Jeremy Hunt, has announced that he will present the Autumn Statement to Parliament on 22 November 2023.

The Office for Budget Responsibility (OBR) has been commissioned to prepare an economic and fiscal forecast to be presented to Parliament alongside his Autumn Statement.

Changes to the self-assessment threshold for income taxed through PAYE:

From tax year 2023 to 2024 onwards, the Self Assessment threshold for customers taxed through PAYE only, has changed from £100,000 to £150,000.

Affected customers do not need to do anything now as the Self Assessment threshold for 2022 to 2023 tax returns remains at £100,000. They will receive a Self Assessment exit letter if they submit a 2022 to 2023 return showing income between £100,000 and £150,000 taxed through PAYE, and they do not meet any of the other criteria for submitting a Self Assessment return.

For the 2023 to 2024 tax year onwards, customers will still need to submit a tax return if their income taxed through PAYE is below £150,000 but they meet one of the other criteria for submitting a Self Assessment return, such as:

- receipt of any untaxed income
- partner in a business partnership
- liability to the High Income Child Benefit Charge
- self-employed individual and with gross income of over £1,000

If individuals want to check if they are required to submit a self-assessment return, there is a helpful tool on the Gov.uk website.

Offpayroll Workers and IR35:

Over 2 years have passed since the introduction of the off-payroll working (IR35) rules for the private sector in April 2021. These rules introduced a requirement for both medium and large businesses in the private sector to assess the tax status of contractors who supply their services via an intermediary.

HMRC activity and compliance checks in this area have increased. There has been a shift from the initial light touch approach towards far more detailed and all encompassing reviews. Off-payroll working is a central theme in Business Risk Reviews (BRR), which all businesses with a Customer Compliance Manager (CCM) will go through at least every 3 years, and we are seeing a growing number of off-payroll working questionnaires being issued by HMRC to businesses.

HMRC has been approaching such reviews with a new focus on the processes and controls in place, with requests including the provision of policy and process documents and in depth numbers of contractors engaged, the route of engagement and assessment outcomes. It is important that accurate and robust written documentation is in place to support overarching governance. This is also extremely important to ensure compliance with Corporate Criminal Offences Act (CCO) and Senior Accounting Officer (SAO) regulations.

There has also been an increase in activity from HMRC in reviewing the compliance of labour supply chains in respect of employment status, as well as the broader compliance of companies in the chain with governance (i.e. workers rights, National Minimum Wage, holiday pay etc.).

Off payroll Workers - Review of "Particular Occupations" and Offset Consultation:

"Particular occupations"

In addition we have seen HMRC reviewing the "Particular occupations" and have begun to remove guidance where they have determined that a relaxation should no longer apply. Most recently, guidance relating to Locum Pharmacists was withdrawn from 30 June 2023 and the Associate Dentists guidance was removed from 6 April 2023.

As of 7 June 2023 the Entertainment Industry - Behind Camera Appendix 1 guidance was also updated by HMRC to introduce further requirements for several roles. We expect the removal of further particular occupation guidance to follow.

Businesses that currently rely on the particular occupation guidance should pay close attention to further updates and consider reviewing their contractors to determine the strength of assessments made in the event that particular occupation guidance is removed.

PSC offset consultation

Currently, businesses that reach a settlement with HMRC are not entitled to set offs in respect of taxes paid by the worker or their intermediary. Workers and their intermediaries are instead required to make refund claims for the tax and NICs paid via their self-assessment returns.

On 27 April 2023, HMRC published a consultation in respect of allowing HMRC to account for taxes already paid by an individual and/or their intermediary when a deemed employer settles a PAYE liability where they have failed to properly apply the off-payroll working rules. Following the consultation, legislation is expected to be enacted to allow for such set offs of taxes already paid from 6 April 2024.

The policy is expected to align with current set off rules in place for the engagement of sole traders. Consideration should be given to the significant cost impact that this could have on businesses, particularly those with ongoing enquiries or settlements.

https://www.pwc.co.uk/services/tax/insights/ir35-off-payroll.html

P11D and P11D(b) filing and payment deadlines:

In April 2023 HMRC included detailed information on the submission of P11D and P11D(b) returns to HMRC from 6 April 2023.

HMRC has changed legislation to mandate the submission of P11D and P11D(b) returns online. Legislation has also changed to mandate the submission of any amended returns using a new electronic form that can be accessed through the expenses and benefits for employers page.

They will no longer accept paper P11D and P11D(b) forms, this includes lists. The paper form will be rejected on the basis that it has not been submitted to HMRC in the correct way. The employer or agent will be notified of the rejection and directed to the correct process.

You will need to tell us about any Class 1A National Insurance contributions that you owe for the tax year ending 5 April 2024 by 6 July 2024 at the latest. You will also need to file any P11D returns on or before 6 July 2024, failure to do so may result in a penalty. Any Class 1A National Insurance you owe must reach us on or before 22 July 2024.

Find out more about how to complete P11D and P11D(b).

National Minimum Wage Naming — published by the Department for Business & Trade:

In June 2023, over 200 employers were named by the government for failing to pay their lowest paid staff the minimum wage. The 202 employers were found to have failed to pay their workers almost £5 million in a clear breach of NMW law, leaving around 63,000 workers out of pocket. In addition to this, these employers faced penalties of nearly £7 million.

The companies named range from major high street brands to small businesses and sole traders, in a clear message from the government that no employer is exempt from paying their workers the statutory minimum wage.

The investigations by HMRC concluded between 2017 and 2019.

The results showed that 39% of employers deducted pay from workers' wages. Most deductions will reduce a worker's pay for minimum wage purposes. This can include deductions for meals, uniform, equipment as well as many other things.

Another 39% of employers failed to pay workers correctly for their working time. For example, time spent waiting at or near the workplace, travelling or training is all working time for minimum wage purposes.

Finally, 21% of employers paid the incorrect apprentice rate. To qualify for the apprentice rate, a worker must be employed under a statutory apprenticeship agreement or a contract of apprenticeship. The minimum wage apprentice rate will apply if the apprentice is under the age of 19 or they are aged 19 or over and in the first year of their apprenticeship.

You can find out more at: National Minimum Wage Naming Scheme — Educational Bulletin.

How to avoid naming and penalties

There is a lot of information and support available to help employers get it right, including:

- a checklist for employers — this lists all of the common issues which can lead to workers being underpaid
- calculating the minimum wage

Enterprise Management Incentives:

At Budget 2021, the government published a call for evidence to seek views on whether the EMI scheme should be expanded. At Spring Statement 2022, the government concluded that the EMI scheme remains effective and appropriately targeted, but expanded the review to consider the Company Share Option Plan (CSOP). Changes to CSOP were announced at the fiscal statement made on 23 September 2022 and introduced from 6 April 2023.

Many who responded to the call for evidence commented on the administrative requirements of the EMI scheme, in particular the process to grant options. At Spring Budget 2023, the government published a response to the call for evidence and announced a package of measures.

Two of these measures, the removal of the requirement to sign a working time declaration and the requirement to set out details of share restrictions in option agreements were introduced in the Finance (No. 2) Act 2023 and apply from 6 April 2023.

Furthermore, the time limit for a company to notify HMRC of a grant of EMI is being extended. From 6 April 2024, the deadline for notifying EMI option grants to HMRC will be extended from 92 days after grant to 6 July following the end of the tax year in which the options were granted.

Corporation tax deductions for employee share awards - new HMRC guidance:

HMRC has added to their Business Income Manual (BIM) some new guidance regarding their view on the timing and quantum of tax deductions available in respect of employee share plan awards (e.g. options, restricted stock units etc) that are particularly relevant for companies that do not meet the conditions to claim the UK statutory deduction (under Part 12 CTA 2009).

There are a number of approaches businesses are taking and there can be implications on the corporate tax returns and potential requirements to re-file earlier year returns.

Brief Background

This is particularly relevant to companies that:

- Net settle employee share awards for tax purposes
- Cash settle employee share awards rather than delivering shares (which frequently occurs on a takeover)
- Are controlled by an unlisted corporate (e.g. PE backed groups and some other private companies / groups)

The guidance comes over a year following the outcome of a UK Supreme Court case (HMRC vs NCL Investments Ltd - March 2022) which decided that in many circumstances a corporate tax deduction is available for an IFRS 2 accounting charge when the statutory Part 12 deduction is not available.

For net settlement and cash settled share awards the new guidance is suggesting companies must take a relatively complex and administratively burdensome approach to claiming deductions over multiple years, in some cases requiring previous tax returns to be continuously adjusted to claim the full deduction available.

What actions should you consider taking?

The application of this new HMRC guidance is very much dependent on the terms contained in a company's employee share plan rules and how they are operated. If not already doing so, we recommend that you review and consider the position you are currently taking.

Holiday pay updates:

As of 5 October 2023, the Supreme Court handed down an important judgement (Chief Constable of the Police Service of Northern Ireland v Agnew & others) which focused on holiday pay due to workers in Northern Ireland.

The case confirmed that employers must pay normal pay when workers take their four weeks' paid annual leave. This will include additional payments on top of basic pay, such as overtime that the worker regularly works.

The judgement confirmed that workers can claim for unpaid holiday pay (where normal pay has not been maintained) and this claim can cover a series of underpayments that are linked (i.e. the same holiday pay calculation has been performed). It found a break of three months between any two underpayments, or by the correct amount of holiday pay being paid, may not break the series. The three month break had previously been upheld in case law and employers have relied upon this to limit cost and risk. This is no longer the case, and this judgement cannot be appealed.

This is important as workers can now claim for underpayments of holiday pay that are linked over the course of the last two years in Great Britain and back to 1998 in Northern Ireland, regardless of any breaks in underpayments.

The judgement also comments on the different types of annual leave and how these are applied and the reference period used to calculate normal pay.

What next

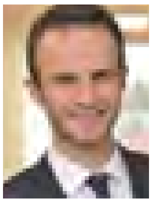
It is key that workers are paid the right amount of holiday pay and employers will want to manage the risks and costs around this as well as ensure that they have the correct processes in place going forward.

Employers should now review their current holiday pay calculations to ensure workers are being paid correctly for holidays. Where employers identify changes are required, they will need to take clear steps to break the fact pattern of the series of underpayments.

As part of this review employers should consider the different types of annual leave and how these are treated in communications and calculations. This will be very important for employers who have workers who earn remuneration in addition to their basic pay. Including where they only pay normal pay on the first 20 days of annual leave, or allow workers to purchase additional holiday entitlement.

Holiday pay continues to be a key focus for the Government, workers and unions. With two recent Government consultations focusing on holiday entitlement and pay.

Europe, Middle East and Africa Contacts



Erold Kamber
Senior Manager, PwC Albania

E: erold.kamberi@pwc.com

Nilusha Weeraratne
Director, PwC Botswana

E: nilusha.weeraratne@pwc.com

Sanja Jurkovic
Senior Manager, PwC Croatia

E: sanja.jurkovic@pwc.com

Claus Høegh-Jensen
Partner, PwC Denmark

E: claus.hoegh-jensen@pwc.com

Bernard Borrely
Partner, PwC France

E: bernard.borrely@avocats.pwc.com

Patrick Pilcher
Partner, PwC Gibraltar

E: patrick.pilcher@pwc.com

Stefan Perklin
Director, PwC Austria

E: stefan.perklin@pwc.com

Beaudry Katchi
Director, PwC Chad

E: beaudry.katchi@pwc.com

Kristýna Kankrlikova
Manager, PwC Czech Republic

E: kristyna.kankrlikova@pwc.com

Ashraf Ahmed
Partner PwC, Egypt

E: ashraf.ahmed@pwc.com

Sabine Ziesecke
Partner, PwC Germany

E: sabine.ziesecke@pwc.com

Pat Mahon
Partner, PwC Ireland

E: pat.mahon@pwc.com

Carmela Ettorre
Director, PwC Italy

E: carmela.ettorre@pwc.com

Sara Couman
Director, PwC Lebanon

E: sara.chouman@pwc.com

Bernard Attard
Partner, PwC Malta

E: bernard.attard@pwc.com

Kjetil Vinnes Raknerud
Partner, PwC Norway

E: kjetil.raknerud@pwc.com

Bruno Andrade Alves
Partner, PwC Portugal

E: bruno.andrade.alves@pwc.com

Barry Knoetze
Director, PwC South Africa

E: b.knoetze@pwc.com

Obed Nyambego
Partner, PwC Kenya

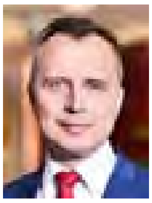
E: obed.nyambego@pwc.com

Michiel Roumieux
Partner PwC, Luxembourg

E: michiel.roumieux@pwc.lu

Daniel Sternfeld
Partner, PwC Netherlands

E: daniel.sternfeld@pwc.com



Michal Grzybowski
Partner, PwC Poland

E: michal.g.grzybowski@pwc.com

Viera Hudečková
Director, PwC Slovakia

E: viera.hudeckova@pwc.com

Amaia Otaola Martinez
Partner, PwC Spain

E: amaia.otaola.martinez@pwc.com

Irène Stalder
Senior Manager, PwC Switzerland

E: irene.stalder@pwc.ch

Rishit Shah
Partner, PwC Tanzania

E: rishit.shah@pwc.com

Mert Aktalay
Director, PwC Turkey

E: mert.aktalay@pwc.com

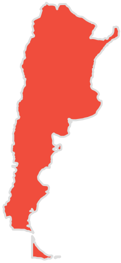
Natalie Jones
Director, PwC Middle East

E: natalie.j.jones@pwc.com

John Harding
Partner, United Kingdom

E: john.l.harding@pwc.com

The Americas



Argentina

Tax free threshold update - Updates to Decree No. 473/2023:

Through this Decree, the number of people who are not subject to income tax withholding on their salary will increase significantly, with respect to individuals whose gross income does not exceed the sum of 15 Minimum Salary Wages (MSW).

Currently the value of the MSW amounts to AR$118,000, although it is likely that it will be modified soon, consequently increasing the aforementioned amount. The projected updates are as follows:

- October 2023: AR$ 132,000 (so people earning less than AR$ 1,980,000 per year will not pay income tax on salaries)
- November 2023: AR$ 146,000 (so people earning less than AR$ 2,190,000 per year will not pay income tax on salaries)
- December 2023: AR$ 156,000 (so people earning less than AR$ 2,340,000 per year will not pay income tax on salaries)

This regulation applies to accrued salary from 1 October 2023 with the exception of an Annual Statutory Bonus.

In order to verify whether an employee qualifies for these increased deductions, it must be considered in the period from 1 October 2023 to 31 December 2023, that the remuneration and/or average monthly gross income is lower than or equal to fifteen times the MSW.

Also, the aforementioned exemption applies to the second instalment of the Annual Statutory Bonus, to the extent that the amount of the remuneration and/or gross income is less than 15 times the MSW.

Brazil

Equal Pay Law Approved:

In July 2023, a law that provides for mandatory equal pay and remuneration criteria between men and women when performing work of equal value or the same function was published.

To comply, companies must ensure the following measures:

- establishment of salary transparency mechanisms;
- supervision against discrimination;
- provision of channels for complaints;
- promotion and implementation of diversity and inclusion programs in the workplace, which train managers, leaders, and employees on equity between men and women in the workplace, with verification of results; and
- development and training for women to enter, remain and rise in the job market on equal terms with men.

In addition to these measures, private companies with one hundred or more employees must publish semi-annual reports on salary transparency and remuneration criteria, observing personal data protection. The data in the reports must be anonymous and contain information that makes it possible to compare salaries, remuneration and the proportion of management and leadership positions filled by men and women.

In case of non-compliance with the established standards, the company will be administratively fined an amount corresponding to up to 3% of the employee's payroll, limited to a hundred minimum wages, without prejudice to the sanctions applicable to salary discrimination and remuneration criteria between men and women. In addition to these sanctions, the employee may file a labour lawsuit claiming moral damages for the prejudice suffered.

Legality of the Assistance Contribution to Labour Unions:

In September 2023, by a majority vote, the STF (Supreme Federal Court – the public entity that represents the highest instance of the Judiciary in Brazil) decided that collecting assistance contributions from employees is legal.

The contribution aims to cover the union's assistance activities and the costs of participating in collective labour negotiations.

With this decision, contribution collection may be required from all workers, even if not unionised, as long as it is approved in collective conventions or agreements. However, it is essential to highlight that this charge is not mandatory, and the worker's right to object expressly is guaranteed.

Payment of the contribution must be deducted from each employee's payroll, and the amount and frequency will be established in collective bargaining agreements.

Canada

Employee Ownership Trusts:

In its 2023 Budget, the federal government announced that it will move ahead with new rules for employee ownership trusts (EOT) – a new type of trust that will hold shares for the benefit of employees of a corporation controlled by the trust and make distributions to employees based only on their length of service, remuneration and hours worked. The government has introduced these rules with the express purpose of facilitating the purchase of a business by its employees, without requiring them to pay directly for the shares, and of providing an additional succession planning alternative for business owners.

Updated draft legislation was provided this quarter that generally loosened the conditions for an entity to qualify, allowing for distributions of shares to employees, and also permits former employees to remain members of the trust (certain limits apply). Particularly, the requirement for the entity to have 90% of the fair market value of its assets used principally in an active business in Canada has been removed, and some former employees can remain members of the trust (up to 66% of the total members)

RCA - Letters of Credit:

In the same release, the federal government also revised the rules relating to RCA trusts that are supplemental to a registered pension plan, with respect to fees paid to secure a letter of credit, effective as of 28 March 2023. Supplemental pension arrangements that are funded with a letter of credit have created a refundable tax problem: without the proposed changes, there is no way to receive a refund of RCA refundable tax without winding up the plan (which is often impossible with multi-member supplemental plans). The proposed amendments will provide a mechanism for sponsors to be able to access the refundable tax as benefits are paid out.

Share buyback:

The federal government has introduced a 2% tax on share buybacks that applies as of 1 January 2024 to the annual net value of repurchases of equity by public corporations and certain publicly traded trusts and partnerships in Canada. A business would not be subject to the tax in a year if its gross repurchases of equity were less than $1 million.

Alternative Minimum Tax for High-Income Individuals:

The Alternative Minimum Tax (AMT) is a parallel tax calculation that allows fewer deductions, exemptions, and tax credits than under the ordinary income tax rules, and that currently applies a flat 15-per-cent tax rate with a standard $40,000 exemption amount instead of the usual progressive rate structure.

The taxpayer pays the AMT or regular tax, whichever is highest. Additional tax paid as a result of the AMT can generally be carried forward for seven years and can be credited against regular tax to the extent regular tax exceeds AMT in those years. The AMT does not apply in the year of death.

Changes to the AMT calculation have been implemented effective after 31 December 2023, that increase the effect of AMT on individuals that receive virtually only stock options or capital gains and reduce the tax effect of donating publicly listed securities.

Colombia

Labour Exempt Income:

From the 2023 fiscal year there is a decrease in the maximum amount of labour exempt income. Previously it was 2880 tax units (COP 109.451.520) annually, and now is 790 tax units (COP 33.505.480)

As per the fiscal year 2023 there is a decrease in the maximum amount of total deductions and exemptions for individuals. Previously it was 5040 tax units (COP 191.540.160) annually, and now is 1340 tax units (COP 56.832.000).

These changes were as a result of a Tax reform that came into effect in January 2023.

Costa Rica

Income tax updates:

There was a change in the income tax thresholds for this year,:

- Income of up to CRC 941,000.00 per month (not subject to tax)
- Income above CRC 941,000.00 per month up to CRC 1,381,000.00 per month – 10%
- Income above CRC 1,381,000.00 per month up to CRC 2,423,000.00 permonth – 15%
- Income above CRC 2,423,000.00 per month up to CRC 4,845,000.00 per month – 20%
- Income in excess of CRC 4,845,000.00 per month – 25%

The percentage of contributions to social security has increased by 0.17% for employers and employees, so the percentage of the employer's contribution will be 26.67% and the percentage of the employee's contribution will be 10.67%.

Guatemala

Minimum wage updates:

As of 1st January 2023, the minimum wage has been set for the department of Guatemala at GTQ 101.06 (USD 12.95) per day for agricultural work, for non-agricultural work GTQ 104.10 per day (USD 13.34) and for export and maquila sector GTQ 95.13 (USD 12.19)

For the rest of the departments, it has been set for the department of Guatemala at GTQ 98.22 (USD 12.59) per day for agricultural work, for non-agricultural work GTQ 101.18 per day (USD 12.97) and for the export and maquila sector GTQ 92.47 (USD 11.85)

Mexico

Social Security update:

On 7 July 2023, the Mexican Social Security Institute (IMSS by its acronym in Spanish) published the agreement ACDO.AS2. HCT.260623/160.P.DIR in the Official Gazette of the Federation, which guides employers or obligated subjects regarding the following:

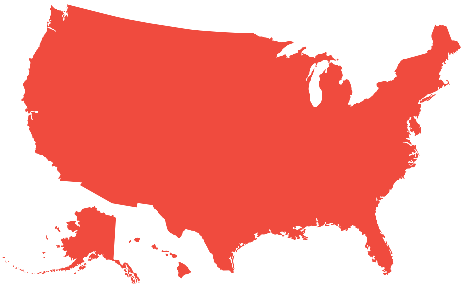
- If the participation of workers in profits (PTU by its acronym in Spanish) exceeds the limits indicated in section VIII of article 127 of the Federal Labor Law (FLL) (3 months salary or the average of the participation received in the last 3 years) or it exceeds the amount of participation in one month (indicated for employers dedicated to the care of assets that produce income or to the collection of credits and their interests), and the employers decide not to deduct the amount delivered in excess from the employees, said perception loses the nature of profits and becomes a bonus that forms part of the contribution base salary of said employees.
- If the employer decides to make advances regarding the payment of PTU (by its acronym in Spanish), or pays untimely, by violating the legal term established in article 122 of the FLL for the payment of profits, said benefit when it is left out of the limits or terms established by the FLL lose their nature and for the purposes of social security obligations, they must be included as part of the contribution base salary of the employee
- Payments made as a productivity bonus never lose their legal nature of perception or gratuity and therefore must be integrated into the contribution base salary of the employee.

Considering that these criteria present us with the possible position of the IMSS, as well as what it considers to be an improper tax practice with regards to social security, it is necessary to carry out a review of the labour, tax and social security structure, the way in which the company has operated and documented compliance with its obligations in terms of PTU.

It was published in various media outlets that the Sindicato Nacional Minero y Metalúrgico "Frente" obtained a favourable resolution derived from the appeal for constitutional protection that it promoted against the decree in which the bases were established to reform article 127, section VIII of the FLL, specifically regarding the cap to determine the participation of employees in the profits of the company.

The Eighth District Court granted the appeal for constitutional protection of federal justice, considering that the aforementioned limitations contravened the Constitution, recognising the right of employees to profits being paid without taking into account the cap. The distribution will be made with respect to 10% of the Employer's fiscal profits.

Although the criteria of the District Court may be subject to review by a higher Court (this only generates rights for the employees who promoted it), we consider it extremely important to monitor the case's evolution, since it will generate a relevant precedent on the matter.



United States

Employee Retention Credit: IRS Highlights Red Flags and Announces Compliance Program

The Employee Retention Credit (ERC) under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted 27 March 2020, is a payroll tax credit aimed at employers impacted by the COVID-19 pandemic. This refundable payroll tax credit is available for businesses and tax-exempt organisations that kept paying employees during the COVID-19 pandemic either when they were shut down due to a government order or when they had a significant decline in gross receipts during certain eligibility periods in 2020 and 2021.

Effective 14 September 2023, the Internal Revenue Service (“IRS”) announced an immediate moratorium on processing new ERC claims until 31 December 2023. In addition to the moratorium, the IRS forecasted several initiatives would be forthcoming for taxpayers who determined they filed erroneous refund claims. The objectives included the development of a settlement program for businesses that used ERC promoters to claim improper ERC refunds. The IRS also noted that it was going to outline special withdrawal procedures for employers that had filed ERC refund claims that had not yet been processed and paid. The IRS stated that a “substantial share of new claims from the ageing program are ineligible and increasingly putting businesses at financial risk by being pressured and scammed by aggressive promoters and marketing”.

The IRS announced additional details on 19 October 2023 in IRS Fact Sheet 2023-24 regarding a special withdrawal process to help those who filed an ERC claim and had concerns about its accuracy. The IRS also updated its website to upgrade a question and answer checklist to an interactive feature to help taxpayers understand the basics of the credit and assess eligibility. Taxpayers may be eligible to use the special ERC withdrawal process if the following criteria have been met:

- The Taxpayer made the claim on an adjusted employment return (Forms 941-X, 943-X, 944-X, CT-1X);
- The Taxpayer filed the adjusted return only to claim the ERC, and they made no other adjustments on the return;
- The taxpayer wants to withdraw the entire amount of their ERC claim; and
- The IRS has not paid the claim, or the IRS has paid the claim, but the Taxpayer has not cashed or deposited the refund check.

The IRS Commissioner, Danny Werfel, emphasised these compliance programs in the following remarks: “The IRS is committed to helping small businesses and others caught up in this onslaught of Employee Retention Credit marketing. The aggressive marketing of these schemes has harmed well-meaning businesses and organisations, and some are having second thoughts about their claims. We want to give these taxpayers a way out”.

Organisations that are evaluating eligibility for the ERC should consider IRS "red flags” when making ERC eligibility determinations and quantifying the credit. While the IRS has stopped processing new claims for now, vetted and appropriate ERC refund claims may be filed on an ongoing basis to preserve taxpayers’ right to the refundable tax credit. Employers that have filed refund claims, whether or not funds have been received, should also review the accuracy of the ERC claim and amount. The withdrawal programs announced by the IRS on 19 October 2023 may be an option for employers that filed refund claims that it later determined were improper.

New Jersey’s “Convenience of Employer” Rule

On 21 July 2023, New Jersey enacted P.L. 2023, c.125 that established a reciprocal Convenience of Employer (“COE”) rule used to source the wages of New Jersey nonresident employees. With certain exceptions, New Jersey’s COE only applies to nonresident employees whose state of residence also imposes a COE. In addition to New Jersey, the following states have a form of COE rule: Connecticut, Delaware, Nebraska, New York, and Pennsylvania.

Generally, a COE state sources the wages earned by a nonresident to the COE state when the employee is working elsewhere, such as when an employee is working remotely from their personal residence without an employer business purpose or not for the convenience of the employer. An employer is required to report wages and withhold and remit state income taxes to the COE state. An employer may also have an obligation to withhold state income taxes and report to their resident state wages paid to the employee.

The law is retroactive to 1 January 2023. However, additional guidance provides for mid-year implementation by employers. A New Jersey employer that began applying this rule by 15 September 2023 will not be subject to penalties or interest. The guidance recommends communication to impacted employees as their state income taxes may be underpaid when they file their personal tax return by 15 April 2024. We recommend that New Jersey employers evaluate their remote and hybrid work arrangements and consider the impact of COE rules on their payroll tax withholding and reporting processes.

Venezuela

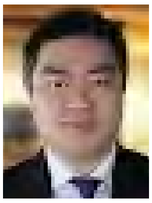
Income tax updates:

Ruling No. 833 of the Constitutional Chamber of the Supreme Court of Justice was released on the 26th June 2023, which ratified the criteria that the normal salary(*), is the salary that must be considered for income tax purposes for salaried individuals.

(*) Normal salary is understood to be the remuneration earned by the worker on a regular and permanent basis for the provision of his or her services. Therefore, income derived from social benefits and those that the Law considers to be non-salary, are excluded.

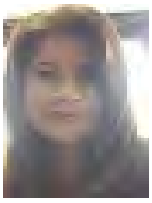
The Americas contacts

Marcelo Brandariz
Partner, PwC Argentina
E: marcelo.brandariz@pwc.com

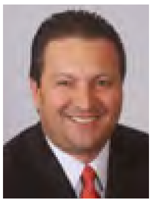


Mauricio H Tame
Director, PwC Brazil
E: mauricio.htame@pwc.com

Laura Eldridge
Partner, PwC Canada
E: laura.j.eldridge@pwc.com



Eliana Bernal
Partner, PwC Colombia
E: eliana.bernal@pwc.com

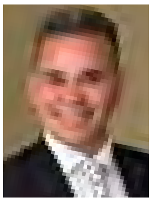


Carlos Barrantes
Partner PwC, Costa Rica
E: carlos.barrantes@pwc.com

Roberto Ozaeta
Partner PwC, Guatemala
E: roberto.ozaeta@pwc.com

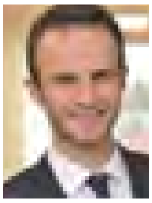
Guadalupe González Vargas
Partner, PwC México
E: gonzalez.vargas@pwc.com

Jared Curless
Partner, PwC United States
E: jared.t.curless@pwc.com



Elis Aray
Partner PwC, Venezuela
E: elys.aray@pwc.com

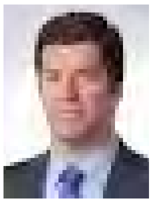
Contacts



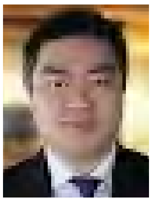
Erold Kamber
Senior Manager, PwC Albania
E: erold.kamberi@pwc.com

Greg Kent
Partner, PwC Australia
E: greg.kent@pwc.com

Stefan Perklin
Director, PwC Austria
E: stefan.perklin@pwc.com



Marcelo Brandariz
Partner, PwC Argentina
E: marcelo.brandariz@pwc.com

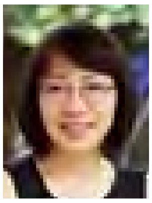


Mauricio H Tame
Director, PwC Brazil
E: mauricio.htame@pwc.com

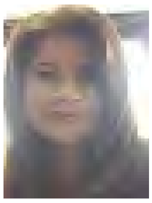
Nilusha Weeraratne
Director, PwC Botswana
E: nilusha.weeraratne@pwc.com

Laura Eldridge
Partner, PwC Canada
E: laura.j.eldridge@pwc.com

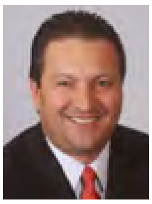
Beaudry Katchi
Director, PwC Chad
E: beaudry.katchi@pwc.com



Jane Cheung
Partner, PwC China
E: jane.kc.cheung@cn.pwc.com



Eliana Bernal
Partner, PwC Colombia
E: eliana.bernal@pwc.com



Carlos Barrantes
Partner PwC, Costa Rica
E: carlos.barrantes@pwc.com

Sanja Jurkovic
Senior Manager, PwC Croatia
E: sanja.jurkovic@pwc.com

Kristýna Kankrlikova
Manager, PwC Czech Republic
E: kristyna.kankrlikova@pwc.com

Ashraf Ahmed
Partner PwC, Egypt
E: ashraf.ahmed@pwc.com

Sabine Ziesecke
Partner, PwC Germany
E: sabine.ziesecke@pwc.com

Roberto Ozaeta
Partner PwC, Guatemala
E: roberto.ozaeta@pwc.com

Nikhil Rohera
Partner, PwC India
E: nikhil.rohera@pwc.com

Pat Mahon
Partner, PwC Ireland
E: pat.mahon@pwc.com

Claus Høegh-Jensen
Partner, PwC Denmark
E: claus.hoegh-jensen@pwc.com

Bernard Borrely
Partner, PwC France
E: bernard.borrely@avocats.pwc.com

Patrick Pilcher
Partner, PwC Gibraltar
E: patrick.pilcher@pwc.com

Ellen Tong
Partner, PwC Hong Kong
E: ellen.tong@hk.pwc.com

Brian Arnold
Partner, PwC Indonesia
E: brian.arnold@pwc.com

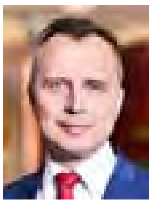
Carmela Ettorre
Director, PwC Italy
E: carmela.ettorre@pwc.com

Obed Nyambego
Partner, PwC Kenya
E: obed.nyambego@pwc.com

Michiel Roumieux
Partner PwC, Luxembourg
E: michiel.roumieux@pwc.lu

Guadalupe González Vargas
Partner, PwC México
E: gonzalez.vargas@pwc.com

Phil Fisher
Partner, PwC New Zealand
E: phil.j.fisher@pwc.com



Michal Grzybowski
Partner, PwC Poland
E: michal.g.grzybowski@pwc.com

Viera Hudečková
Director, PwC Slovakia
E: viera.hudeckova@pwc.com

Sara Couman
Director, PwC Lebanon
E: sara.chouman@pwc.com

Bernard Attard
Partner, PwC Malta
E: bernard.attard@pwc.com

Daniel Sternfeld
Partner, PwC Netherlands
E: daniel.sternfeld@pwc.com

Kjetil Vinnes Raknerud
Partner, PwC Norway
E: kjetil.raknerud@pwc.com

Bruno Andrade Alves
Partner, PwC Portugal
E: bruno.andrade.alves@pwc.com

Barry Knoetze
Director, PwC South Africa
E: b.knoetze@pwc.com

Jung-Ho Ko
Managing Director,
PwC South Korea

E: jung-ho.ko@pwc.com

Irène Stalder
Senior Manager, PwC
Switzerland

E: irene.stalder@pwc.ch

Somsak Anakkasela
Partner, PwC Thailand

E: somsak.anakkasela@pwc.com

Natalie Jones
Director, PwC Middle East

E: natalie.j.jones@pwc.com

Jared Curless
Partner, PwC United States

E: jared.t.curless@pwc.com

Amaia Otaola Martinez
Partner, PwC Spain

E: amaia.otaola.martinez@pwc.com

Rishit Shah
Partner, PwC Tanzania

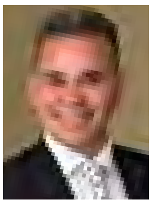
E: rishit.shah@pwc.com

Mert Aktalay
Director, PwC Turkey

E: mert.aktalay@pwc.com

John Harding
Partner, United Kingdom

E: john.l.harding@pwc.com



Elis Aray
Partner PwC, Venezuela

E: elys.aray@pwc.com