



INTERNATIONAL EXECUTIVE SERVICES

Thinking Beyond Borders – Management of Extended Business Travelers

TAX

Contents

Management of Extended Business

Travelers Overview	2
---------------------------	----------

KPMG's International Executive Services

ASPAC Network **5**

Australia	6
Brunei Darussalam	9
Cambodia	11
China	14
Fiji	17
Hong Kong	20
India	23
Indonesia	26
Japan	29
The Lao People's Democratic Republic	32
Macau	35
Malaysia	38
Mongolia	41
New Zealand	44
Papua New Guinea	47
Philippines	50
Singapore	53
South Korea	56
Sri Lanka	59
Taiwan	62
Thailand	65
Vietnam	68

Management of Extended Business Travelers – Overview



Against a backdrop of globalization and the transfer of skills across the world, extended business travelers are playing an increasingly larger role in the business arena.

Extended business travelers are defined as employees working abroad for more than 30 days but less than 180 days per year. 183 companies chose to participate in the “Short Term Assignment/Extended Business Traveler” survey conducted by KPMG in October 2007, 93 percent of the companies surveyed had extended business travelers, 6 percent had none and 1 percent were unsure.

In the same survey, companies were asked to predict whether they expected a change in the utilization of extended business travelers over the following 18 months.

With the likely overall increase in the number of extended business travelers in the years to come, it is important to be cognizant of the tax and other compliance related issues.

The greatest risk for companies is the compliance risk associated with extended business travelers who seem to be causing more areas of concern compared to short-term assignments. This is because many extended business travelers “fly below the radar” so-to-speak and

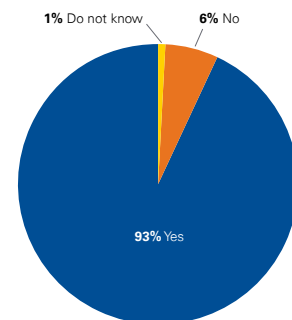
these business trips are not formalized in the same manner as short-term assignments.

Many companies concede that they do a poor job of managing the tracking and compliance in this regard. The survey confirms that 87 percent of companies are “somewhat concerned” or “extremely concerned” that extended business travelers create a compliance risk for the company.

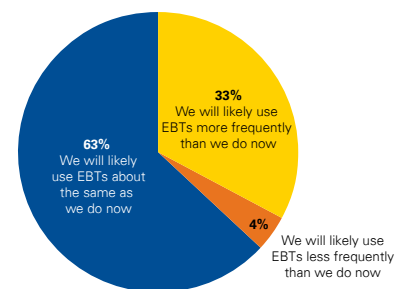
Of major concern is the possibility of having employees detained by immigration officials, managing the company reputation with authorities, unbudgeted costs for the business and employee satisfaction levels as a result of travel away from their families.

For those companies that don't have a formal process in place, 22 percent of survey respondents indicated that they typically find out about their company's extended business travelers when the business trip turns from a business trip into a formal assignment and another 20 percent said they typically find out when the business traveler requests more money or services.

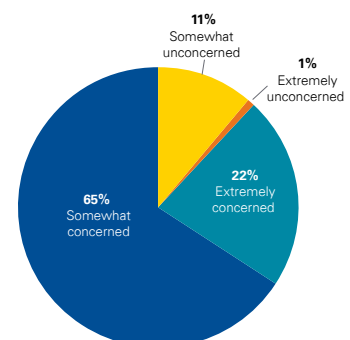
Does your company have Extended Business Travelers (EBTs) (defined as employees working abroad for more than 30 days but less than 180 days per year)?



Over the next 18 months, do you expect a change in the use of EBTs by your company?



Is your company concerned that EBTs create a compliance risk for the company?



Results of the Short Term Assignment/Extended Business Traveler Survey prepared by KPMG's Global Mobility Advisory Services



Key issues include income tax compliance for the individuals concerned, the reporting and withholding obligations imposed upon the companies as a result, corporate tax considerations such as the creation of a permanent establishment in the host jurisdiction, social security obligations, immigration requirements and employee tracking. We have elaborated on some of these issues below in order to highlight some of the salient points.

Indirect taxes and duties

The physical presence of employees in overseas localities can expose the employer to indirect taxes (e.g. customs duties, GST, VAT, sales and use taxes) and on costs incurred while the employees work and live overseas. A physical presence in an overseas locality may also bring about indirect tax liabilities for services that the employees perform for your related corporations or clients.

Governments throughout the world are expanding their indirect tax base so that managing your exposure to the myriad of taxes in overseas localities is a major challenge. KPMG International's Corporate and Indirect Tax Survey conducted in 2008 of 90 countries shows rates of indirect tax varying from 3 percent to 25 percent, with an average of 15.7 percent.

The widespread use of indirect taxes in both advanced and less sophisticated economies is 'the modern tax phenomenon'. For companies with employees in foreign jurisdictions, it can represent an unanticipated cost of operations, or worse, tax and penalties for non-compliance with the host country's regulatory environment. However, there may also be opportunities to recover duty on the importation of equipment, taxes on business inputs and/or services rendered.

Permanent Establishment (PE) exposure

A PE is broadly a business presence similar to a branch that a business enterprise may have in another country. Where one exists, the local laws of that foreign country may require it to be subject to tax.

PE risks are generated by employees positioned in the wrong place at the wrong time taking the wrong actions. PE exposure is typically greatest when launching into new countries, as employees often enter the new frontier and begin to conduct business before the proper corporate structure has been set up. However, PE exposure is not limited to operations in new countries; employees can conduct business in a single country while representing multiple legal entities.

In addition, not all of these entities may have a PE in the country in which the employee is doing business. For these reasons and more, processes, controls, and clear business/employee operating guidelines and documentation are critical to mitigating the PE risk inherent in an international workforce.

Transfer pricing

Transfer pricing rules can be complex. While they are normally based on the Organization for Economic Co-Operation and Development's (OECD) guidance, local requirements and focus may differ to some extent. With respect to business travelers, common transfer pricing concerns include the following:

- Arm's-length remuneration to the business traveler's home office, especially if the contract is between group entities (rather than between the host entity and the seconded employee).
- Remuneration between group entities differs substantially from that charged to external clients.
- Whether the business traveler's expenses should be marked-up by the traveler's home office.

In most cases, obtaining detailed and contemporaneous transfer pricing documentation should go towards mitigating potential transfer pricing audit challenges. Such documentation should ideally be prepared from the perspective of local requirements in both the home and host office locations.

Data privacy

The movement of personally identifiable data across borders is a necessity when managing a mobile, global workforce. But the movement of such information needs to occur in conjunction with a number of national and transnational regulations relating to the security of such data. Compliance with these regulations necessitates ongoing review of the systems that maintain this data, the location of hardware supporting these systems, the safety/security features of these systems, and the long-term storage of this critical human resources data.

Immigration compliance

Immigration compliance is critical because the penalties for non-compliance are high. Penalties can include imprisonment for the employee, civil and criminal charges and/or fines for the employer. Reputation risk and involuntary closure of business operations within a jurisdiction for willful non-compliance are also possible.

Payroll-related tax withholding and reporting

It often seems the simplest of tasks, but accurately reporting wages (including equity and other incentive compensation) and withholding taxes in a timely manner can challenge even the most efficient organization. Cross-border employment brings a different level of complexity to domestic reporting and withholding rules, requiring the sourcing of income across countries, an understanding of the treaty implications on different types of income, and adjusting tax withholding for anticipated foreign tax credit relief. Managing cross-border employees takes both specialized systems and knowledge of global compliance standards. Although most companies are surprised at the extra effort allocated to the international elements of their payroll, many still find compliance a challenge.

The above considerations, amongst others, must be factored in when planning and managing extended business travel. We have collated the following country chapters, which provide a high-level overview of the tax and other implications in the major jurisdictions within the Asia Pacific region. This should assist companies in developing and identifying compliance matters around extended business travelers and assist them to develop an approach that is tailored to the particular organization.

KPMG's International Executive Services **ASPAC Network**



Australia
Brunei Darussalam
Cambodia
China
Fiji
Hong Kong
India
Indonesia

Japan
The Lao People's
Democratic Republic
Macau
Malaysia
Mongolia
New Zealand
Papua New Guinea

Philippines
Singapore
South Korea
Sri Lanka
Taiwan
Thailand
Vietnam



Australia

Introduction

A person's liability to Australian tax is determined by his/her residence status for taxation purposes and the source of income derived by him/her. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

Contact

Rosheen Garnon
Tax Partner
Tel: +61 2 9335 7255
Email: rgarnon@kpmg.com.au

Key messages

Extended business travelers are likely to be taxed on employment income relating to their Australian work days.

Income tax

Residents are taxed on worldwide income whilst non-residents and temporary residents are generally taxed on Australian sourced income only

Liability to income tax

A person's liability to Australian tax is determined by his/her residence status. A person can be a resident, non-resident, or temporary resident for Australian tax purposes. A resident of Australia generally refers to an individual who enters Australia with the intention of remaining for more than six months (or actually spends more than six months in Australia during an income year). A temporary resident is a resident of Australia who is in Australia on a specific temporary visa and meets other prescribed conditions. A non-resident of Australia is generally someone who spends less than six months in Australia.

The general rule is that a person who is a resident of Australia is assessable on his/her worldwide income. Non-residents and temporary residents are generally assessable on income derived directly or indirectly from sources in Australia.

Extended business travelers are likely to be considered non-resident of Australia for tax purposes unless they enter Australia with the intention to remain in Australia for more than six months.

Definition of source

Employment income is generally treated as Australian sourced compensation where the individual performs the services whilst physically located in Australia.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Australia.

To the extent that the individual qualifies for relief in terms of the Dependent Personal Services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Australian entity is his/her economic employer.

Fringe benefits tax is levied on the employer

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Australian sourced income and gains from taxable Australian assets (such as real property). Fringe benefits, broadly non-cash employment income, are subject to fringe benefits tax, which is levied on the employer.

The maximum tax rate is 45 percent

Tax rates

Net taxable income is taxed at graduated rates ranging from 15 percent to 45 percent. Non-residents are subject to tax at 29 percent on the first 34,000 Australian Dollars (AUD) of income and graduated rates ranging from 30 percent to 45 percent for the remaining income.

The maximum tax rate is currently 45 percent on income earned over AUD 180,000 in the case of both residents and non-residents.

Social security

Foreigners may be exempt from superannuation

The Medicare Levy and Medicare Levy Surcharge may be payable

Liability to social security

Superannuation is a mechanism requiring individuals to save money for retirement. It prescribes that employers make a contribution of 9 percent of earnings (up to a maximum contribution of AUD 3,436.20 per quarter) into an Australian superannuation account. An exemption from the superannuation requirement can apply for certain senior executives or where there is a totalization agreement between Australia and the home country.

Medicare Levy is only payable by residents and temporary residents from countries that have reciprocal health agreements with Australia. The Medicare Levy rate is 1.5 percent of taxable income. The Medicare Levy Surcharge may also be payable depending on the employees' level of income and whether they have an appropriate private health insurance. Non-residents are not liable to Medicare Levy or Medicare Levy Surcharge.

Compliance obligations

Tax returns are due by 31 October

Employee compliance obligations

Tax returns are due by 31 October following the tax year-end, which is 30 June. Where a tax agent is used, there is an automatic extension.

Tax returns are required to be filed by non-residents who derive any Australian sourced income (other than Australian dividend income, interest income, or royalties, which are subject to final withholding tax).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system. If an individual is taxable in respect of employment income, the payer has a PAYG withholding requirement. Where the payer is a non-resident, this may be varied to zero by application to the Australian Tax Office (with the liability arising on lodgement of the return).

In addition, employers may be liable to payroll tax where the annual payroll exceeds certain threshold levels. Rates and thresholds vary between States.

Other Work permit/VISA requirements

A visa must be applied for before the individual enters Australia. The type of visa required will depend on the purpose of the individual's entry into Australia.

Australia has an extensive tax treaty network

Double taxation treaties

In addition to Australia's domestic arrangements that provide relief from international double taxation, Australia has entered into double taxation treaties with more than 40 countries to prevent double taxation and allow co-operation between Australia and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Goods and Services Tax (GST) is applicable at 10 percent in respect of taxable supplies. GST registration may, in some circumstances, be required.

Transfer pricing

Australia has a transfer pricing regime.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Australia has data privacy laws.

Currency transfers of AUD 10,000 or more must be reported

Exchange control

Australia does not restrict the flow of Australian or foreign currency into or out of the country. However, certain reporting obligations are imposed to control tax evasion and money laundering. New legislation requires financial institutions and other cash dealers to give notification of cash transactions over AUD 10,000, suspicious cash transactions and certain international telegraphic or other electronic funds transfers (there is no minimum amount). All currency transfers (in Australian or foreign currency) made by any person into or out of Australia of AUD 10,000 or more in value must be reported.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-Australian pension funds.



Brunei Darussalam

Introduction Brunei Darussalam is a Sultanate. The Collector of Income Tax has responsibility for the general administration of the Sultanate's tax legislation.

Contact

Shazali Sulaiman

Tax Partner

Tel: +673 2226888

Email: shazalisulaiman@kpmg.com.sg

Key messages

Brunei Darussalam does not currently levy income tax on individuals.

Income tax

Liability to income tax

There is currently no personal income tax in Brunei Darussalam. Accordingly, resident and non-resident individuals, including extended business travelers, have no liability to income tax in Brunei Darussalam.

Social security

Employers and employees are required to contribute to the Employees Trust Fund

Liability to social security

With effect from 1 January 1994, all private sector companies are required to pay 5 percent of their employee's salaries to the Employees Trust Fund, a provident fund that is administered by the Brunei Government. Employees are also required to contribute 5 percent of their basic salary into this fund.

Payment to the provident fund is mandatory for all citizens and permanent residents of Brunei Darussalam. Foreign workers are not permitted to contribute to the fund.

Compliance obligations

Employee compliance obligations

Individuals are not required to submit any income tax returns.

Employer reporting and withholding requirements

There are no employee income reporting requirements for employers.

There are no payroll taxes in Brunei Darussalam.

Other

Work permit/VISA requirements

A visa must be applied for before the individual enters and works in Brunei Darussalam. The type of visa and employment pass required will depend on the purpose of the individual's entry into Brunei Darussalam.

Double tax treaties are not relevant for individuals

Double Taxation Treaties

Brunei Darussalam has entered into double tax treaties with the UK, Indonesia, Singapore, and China; however, these are not applicable to individuals as individuals are not liable to any personal income taxes.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

There are currently no indirect taxes in Brunei Darussalam.

Transfer pricing

Transactions involving related resident and non-resident entities must be conducted on an arm's-length basis. The Collector of Income Tax has the right to deem any non-resident as trading in Brunei Darussalam and raise an assessment in the name of the Brunei entity, as though it were an agent of the non-resident entity.

Local data privacy requirements

Brunei Darussalam has data privacy laws.

Exchange control

There are currently no exchange control regulations in Brunei Darussalam.

*Excessive salary payments
may be disallowed*

Non-deductible costs for assignees

The Collector of Income Tax may also disallow salary payments that he considers excessive, as not being wholly and exclusively incurred in producing income, such as generous salaries and benefits paid to directors, who are also shareholders and who, as individuals, are not subject to personal income tax in Brunei Darussalam.



Cambodia

Introduction

An individual's liability to Cambodia tax is determined by his/her residence status for taxation purposes and the source of income derived by him/her.

Contact

Low Chee Cheong
Tax Executive Director
Tel: +855 23 216 899
Email: clow@kpmg.com.kh

Key messages

Employers and employees are jointly responsible for the monthly salary tax and fringe benefits tax liabilities in Cambodia, regardless of whether the salary is paid in Cambodia or abroad.

Income tax

Residents are taxed on worldwide income whilst non-residents are taxed on Cambodian sourced income only

Liability to salary and fringe benefits tax

An individual's liability to Cambodian tax is determined by his/her residence status.

An individual is considered a tax resident if he/she is domiciled in or has a principal place of abode in Cambodia, or is present in the Kingdom of Cambodia for more than 182 days in any period of 12 months ending in the current tax year.

A non-resident is an individual who is not a resident.

Definition of source

Cambodian sourced salary is salary received from the fulfillment of employment activities in Cambodia.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Cambodia.

Cambodia levies tax on fringe benefits provided to employees

Types of taxable income

All types of remuneration and benefits received by an employee within the framework of fulfilling employment activities constitute taxable income. This includes salary and wages, redundancy payments, bonuses, overtime, and other compensation.

Cambodia also has a fringe benefits tax regime, which levies tax on fringe benefits provided to employees, such as private use of motor vehicles, food and accommodation, utilities and domestic servants and pension fund contributions exceeding 10 percent of the employee's monthly salary, etc.

Non-residents are taxed at a flat rate of 20 percent

Tax rates

Residents are taxed at progressive rates ranging up to 20 percent. Residents are entitled to tax relief of 75,000 Cambodian Riel (KHR) per month for each child and KHR 75,000 for a dependent housewife.

Non-residents are taxed at a flat rate of 20 percent.

Fringe benefits provided by employers are subject to fringe benefits tax at the rate of 20 percent. The value of fringe benefits is the fair market value of the benefit provided, inclusive of all taxes

Social security

Liability to social security

The National Social Security Fund (NSSF) was set up to manage the occupational risks for all workers/employees under the provisions of the Cambodian labor law.

Under the scheme of occupational risk, every month, employers or owners of enterprises/establishments with more than eight employees are required to report the number of workers/employees and pay a contribution of 0.8 percent of the average monthly wage of their workers/employees to the NSSF by the 15th of the following month.

Workers/employees of enterprises/establishments registered with the NSSF have the right to claim compensation when they sustain injury at work.

Compliance obligations

Individuals are not required to submit tax returns

Employee compliance obligations

Resident and non-resident individuals are not required to file annual tax returns.

Employer reporting and withholding requirements

Employers are responsible for withholding salary tax and fringe benefits tax from their employees and declare it to the Cambodian Tax Department.

Monthly salary tax and fringe benefits tax returns are due by 15th of the following month.

Other

Foreigners are required to have a work permit

Work permit/VISA requirements

A visa must be applied for before an individual enters the Kingdom of Cambodia (though citizens of certain countries do not require a visa). The type of visa required will depend on the purpose of the individual's entry into the Kingdom of Cambodia.

Foreigners cannot legally work in the Kingdom of Cambodia unless they possess a work permit and a work identity card issued by the Ministry of Labor and Vocational Training.

Cambodia has no tax treaty network

Double taxation treaties

Cambodia has not entered into any double taxation treaties.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Value Added Tax (VAT) is applicable at 10 percent in respect of taxable supplies. VAT registration is required.

Transfer pricing

Cambodia currently has no transfer pricing regime

Local data privacy requirements

Cambodia currently has no data privacy laws.

Residents are not restricted from establishing foreign currency bank accounts

Exchange control

The Foreign Exchange Law of 1997 provides that there should be no restrictions on foreign exchange operations. However, these operations can only be performed through an authorized financial institution.

Although the KHR is the official currency of Cambodia, the US dollar (USD) is in common circulation and the majority of commerce is denominated in USD.

There are no restrictions on the establishment of foreign currency bank accounts in Cambodia for residents.

Non-deductible costs for assignees

Employees are not allowed any deductions against their salary income as employees are not required to submit annual tax returns.

There are currently no established guidelines with regard to costs which are non-deductible for employers or assignees.



China

Introduction

In China, the scope of taxation for individuals is generally determined by the source of income, a person's residency status and the length of their residence in China.

Contact

Dawn Foo
Tax Partner
Tel: +8621 2212 2288
Email: dawn.foo@kpmg.com.cn

Key messages

Extended business travelers are likely to be taxed on employment income relating to their Chinese work days.

Income tax

Domiciled individuals are taxed on worldwide income whilst non-domiciled individuals are generally taxed on Chinese sourced income only

Liability to income tax

A person's liability to Chinese tax is determined by their domicile status. A person can be a domiciled individual, a non-resident non-domiciled individual, or a resident non-domiciled individual for Chinese tax purposes.

A domiciled individual is defined as an individual who by reason of his/her permanent registered address or family economic interests, habitually resides in China. An individual with a Chinese passport or a "hukou" (household registration) is likely to be deemed as domiciled in China.

A non-domiciled individual is taxed in accordance with his/her length of residence in China. He/she would be deemed to be a resident of China for that year if he/she has not been physically away from China for more than 30 continuous days or more than 90 cumulative days in a calendar year. A non-domiciled individual who is a resident of China for five years or less, is taxed on income sourced in China only. A non-domiciled individual who is a resident of China for five full consecutive years is taxed on his/her worldwide income.

A non-resident non-domiciled individual may be subject to tax on income sourced in China if he/she is unable to meet the conditions required for exemption.

Definition of source

Employment income is generally treated as Chinese sourced compensation where the individual performs the services whilst physically located in China.

Certain non-resident non-domiciled individuals may be exempt from tax

Tax trigger points

Under domestic legislation, a non-resident non-domiciled individual is exempt from the requirements to file and pay tax in China if he/she meets the following conditions:

- He/she is in China for less than 90 days in a calendar year (this time period is frequently extended if there is a double tax treaty between China and the country in which the individual is a tax resident).
- He/she is paid by an employer outside of China.
- His/her costs are not borne by a permanent establishment or place of business of the employer in China.

The exemption however, will not apply if the person holds a position in the Chinese entity.

Types of taxable income

Unless a person is taxed on his/her worldwide income, the types of income assignees are generally taxed on are employment income, Chinese sourced income and gains from taxable Chinese assets (such as real property).

Tax rates

Net taxable income is taxed at graduated rates ranging from 5 percent to 45 percent. The maximum tax rate is currently 45 percent on monthly taxable income over 100,000 Chinese Renminbi (RMB).

Social security

Liability to social security

Social security taxes do not apply to non-domiciled individuals, with the exception of residents from Hong Kong, Macau, and Taiwan who work for the same entity in China for a cumulative period of more than three months per calendar year. Under rules that applied from 1 October 2005, these employees and their employers are requirement to make social security contributions for the employee (however, in practice, most locations have not implemented the regulations).

Compliance obligations

Tax returns are due by 31 March

Employee compliance obligations

Domiciled individuals and resident non-domiciled individuals with an annual income exceeding RMB 120,000 must file an annual individual income tax return by 31 March.

Other circumstances where an individual needs to file returns within seven days of the month following the receipt of income are:

- Individuals receiving wages from two or more employers in China
- Individuals receiving income from sources outside China (this applies only to domiciled individuals and resident non-domiciled individuals)
- Individuals receiving taxable income in which tax is not withheld at source.

Employer reporting and withholding requirements

The payer of any amount that is income to an individual has an obligation to withhold the individual's income tax and remit the amount to the tax authorities. Hence, employers have an obligation to withhold the tax on the income paid to its employees, file individual income tax withholding returns and remit the amount to the tax authorities within seven days of the month following the payment of amount.

Other Work permit/VISA requirements

Visas are required for entry into China with the exception of short-term visits by residents of some countries. The type of visa required will depend on the purpose of the individual's entry into China.

China has an extensive tax treaty network

Double Taxation Treaties

In addition to China's domestic arrangements that provide relief from international double taxation, China has entered into double taxation treaties with many countries to prevent double taxation and allow co-operation between China and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

China's VAT rate is 17 percent

Indirect taxes

VAT of 17 percent is charged on the supply of goods and the provision of repairs and processing services in China, as well as on the importation of goods into China.

Business tax may apply on the supply of labor services.

Transfer pricing

China has a transfer pricing regime.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

China does not currently have an extensive set of data privacy laws.

China has strict exchange control rules

Exchange control

The RMB is not a freely exchangeable currency. There are strict rules applying to the conversion of RMB to other currencies and vice versa within China.

Non-deductible costs for assignees

Non-deductible costs for assignees may include contributions by an employer to non-Chinese pension funds, benefits in kind incurred in China that are not supported by official receipts and accrued but unpaid costs.



Fiji

Introduction

A person's liability to Fiji tax is determined by his/her residence status for taxation purposes and the source of income derived by him/her.

Contact

Lisa Apted
Tax Partner
Tel: +679 3301155
Email: lapted@kpmg.com.fj

Key messages

Business travelers are likely to be taxed on Fiji sourced employment income subject to the relief provisions of the applicable double tax treaty.

Income tax

Residents are taxed on worldwide income whilst non-residents and temporary residents are generally taxed on Fiji sourced income only

Liability to income tax

A person's liability to Fiji tax is determined by his/her residence status. A person can be a resident or non-resident for Fiji tax purposes.

A resident of Fiji generally refers to an individual who enters Fiji with the intention of remaining for more than six months (or actually spends more than six months in Fiji during an income year). A non-resident of Fiji is generally someone who spends less than six months in Fiji.

The general rule is that a person who is a resident of Fiji is assessable on worldwide income. Non-residents are generally assessable on income derived from sources in Fiji.

Definition of source

Employment income is generally treated as Fiji sourced compensation where the individual performs the services whilst physically located in Fiji.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Fiji.

To the extent that the individual qualifies for relief in terms of the Dependent Personal Services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Fiji entity is his/her economic employer.

Types of taxable income

For business travelers, the types of income that are generally taxed are employment income and Fiji sourced income and gains from taxable Fiji assets (such as real property).

Tax rates

Net taxable income is taxed at graduated rates ranging from 15 percent to 31 percent. Non-residents are subject to tax at graduated rates ranging from 20 percent to 31 percent.

The maximum tax rate is currently 31 percent on income earned over 20,000 Fiji Dollars (FJD) in the case of both residents and non-residents

Social security

Non-residents are not required to contribute to the National Provident Fund

Liability to social security

Superannuation is a mechanism requiring individuals to save money for retirement. It prescribes that employers make a contribution of 8 percent of earnings into the Fiji National Provident Fund with a similar contribution by the employee. Non-residents are not obliged to contribute to the National Provident Fund; however, if they wish to contribute, then they must apply to the National Provident Fund to become a member within three months of commencing employment in Fiji.

Compliance obligations

Tax returns are due on 31 March

Employee compliance obligations

Tax returns are due by 31 March following the tax year-end, which is 31 December. Where a tax agent is used, an extension of time is generally granted.

Tax returns are required to be filed by non-residents who derive any Fiji sourced income (other than Fiji dividends, interest income, or royalties, which are subject to final withholding tax).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable in respect of employment income, the payer has a PAYE withholding requirement.

Other

14-day business visas are available

Work permit/VISA requirements

A visa must be applied for before the individual enters Fiji. The type of visa required will depend on the purpose of the individual's entry into Fiji.

A 14-day business visa is generally granted upon entering Fiji to carry out very short-term consultancy type work. A short-term work permit (ranging from three to six months) and long-term work permit (ranging from one to three years) are also available subject to complying with certain requirements.

Fiji has tax treaties with eight countries

Double taxation treaties

In addition to Fiji's domestic arrangements that provide relief from international double taxation, Fiji has entered into double taxation treaties with eight countries, including Australia, Japan, Korea, the United Kingdom, and Singapore, to prevent double taxation and allow co-operation between Fiji and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT is applicable at 12.5 percent in respect of taxable supplies.

Transfer pricing

The Fiji Tax authorities are developing a transfer pricing regime.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Fiji does not have data privacy laws.

Exchange control

Exchange control approval is required for repatriation of funds out of Fiji.

However, if the funds are deposited in the employee's external bank account, exchange control approval is not required.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to non-approved pension/superannuation funds.



Hong Kong

Introduction

There is no general income tax in Hong Kong. For income to be subject to tax, it must fall within one of the specific heads of taxation, namely, salaries tax, profits tax, or property tax. Hong Kong adopts a territorial basis of taxation. A person's residence status is not determinative.

Contact

Barbara Forrest

Tax Principal

Tel: +852 2978 8941

Email: barbara.forrest@kpmg.com.hk

Key messages

Visitors that do not exceed 60 days of presence in Hong Kong in a year of assessment will be exempt from salaries tax. Extended business travelers who exceed 60 days of presence in a year of assessment may be assessed on employment income derived from services rendered in Hong Kong plus the attributable leave only, provided that they hold a non-Hong Kong located employment.

Income tax

Residence status is not determinative when considering a person's liability to salaries tax

Liability to income tax

Taxation in Hong Kong is territorial. The residence status of an employee is not determinative when considering his/her liability to salaries tax.

Hong Kong salaries tax is charged in respect of income arising in or derived from Hong Kong from any office or employment of profit. To determine the extent of salaries tax payable, it is first necessary to determine whether the income is derived from a Hong Kong located employment or a non-Hong Kong located employment.

If an individual's employment is fundamentally located in Hong Kong, all income from the employment will fall within the scope of salaries tax. If an individual's employment is fundamentally located outside Hong Kong, the liability to salaries tax will be limited to tax income for services rendered in Hong Kong plus the attributable leave.

The above does not apply to income derived from an office (i.e., company directors).

The source of income is determined by the location of the employment

Definition of source

The source of employment income is determined by the location of the employment. To determine the location of a taxpayer's employment, the Inland Revenue Department (IRD) will consider all the relevant facts, with particular emphasis on:

- Where the contract was negotiated and entered into, and is enforceable, whether in Hong Kong or outside Hong Kong
- Where the employer is resident, whether in Hong Kong or outside Hong Kong;
- Where the employee's remuneration is paid to him/her, whether in Hong Kong or outside Hong Kong.

The IRD will look further than the external or superficial features of the employment to determine the location of the employment.

Salaries tax exemption

Tax trigger points

Under the local legislation, a full exemption from salaries tax can be claimed where an individual visits Hong Kong for 60 days or during the year of assessment (1 April to 31 March). This 60-day exemption is only available for income from any employment and does not apply to director's fees.

Hong Kong has extensive double tax treaties with several countries. An employee may be able to claim full exemption from salaries tax or tax credit relief under the relevant double tax treaty.

Types of taxable income

For salaries tax purposes, income from any office or employment includes any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite, or allowance, whether derived from the employer or others. In addition, certain benefits (e.g., accommodation benefits, holiday journey benefits and amounts paid in connection with the education of an employee's child) are specifically taxable under the legislation.

The maximum effective tax rate is currently 15 percent

Tax rates

Salaries tax is charged at the lower of net assessable income less allowable deductions at the standard rate, or net assessable income less allowable deductions and personal allowances, charged at progressive rates.

The prevailing standard rate for the 2008/09 year of assessment is 15 percent. The prevailing progressive rates of tax range from 2 percent to 17 percent.

Social security

All employees are required to join an MPF

Liability to social security

Hong Kong does not have a social security tax system. However, all employees and self-employed persons, over the age of 18 but below 65, normally residing and working in Hong Kong are required to join a Mandatory Provident Fund (MPF) scheme. Exemption from the MPF requirements can be claimed where an individual is in Hong Kong for a limited period (13 months or less) or is a member of an overseas retirement scheme.

Compliance obligations

Tax returns are due within one month of the date of issue

Employee compliance obligations

Every taxpayer is required to notify the Commissioner of Inland Revenue that he/she is chargeable to tax not later than four months after the end of the year of assessment in which he/she is chargeable.

In general, tax returns are issued on the first working day of May following the tax year-end, which is 31 March. Extensions to the filing deadline are at the discretion of the IRD.

Other

Work permit/VISA requirements

A visa must be applied for before the individual enters Hong Kong. The type of visa required will depend on the purpose of the individual's entry into Hong Kong.

Double taxation treaties

Hong Kong has entered into extensive double tax arrangements with four countries. The countries are Belgium, Luxembourg, P.R.China, and Thailand.

Whether a business is carried on in Hong Kong is a question of fact

Permanent establishment implications

The issue of whether a business is carried on in Hong Kong or whether profits are considered to be sourced in Hong Kong is a question of fact. Case law has established that very little actual activity needs to be performed in Hong Kong for an offshore entity to be regarded as carrying on business in Hong Kong. Depending on the nature of the particular income concerned, the source of a profit is usually ascertained by looking at the operations that produce the profits in question and where those operations take place.

Indirect taxes

There is currently no VAT or GST levied in Hong Kong.

Transactions with overseas affiliates are required to be at arm's length

Transfer pricing

Hong Kong does not have specific transfer pricing regulations. The only regulatory provision related to transfer pricing is Section 20(2) of the Inland Revenue Ordinance (IRO). However, due to the wording of this provision, it is rarely invoked by the IRD.

In practice, the IRD relies on the general deduction provisions and/or the general anti-avoidance provisions in the IRO to tackle non-arm's-length pricing of transactions between resident taxpayers and their overseas affiliates.

Local data privacy requirements

Hong Kong has data protection laws.

Exchange control

There are currently no foreign exchange controls on fund transfers.

Non-deductible costs for assignees

In general, a corporate deduction for expenses is allowed to the extent to which the expenses are incurred and related to its assessable profits in Hong Kong.



India

Introduction

Taxation varies based on the residency status of the individual in a tax year. Individuals can be classified as resident, not ordinarily resident, or non-resident.

Contact

Vikas Vasal
IES Tax Partner
Tel: +91 124 307 4780
Email: vvasal@kpmg.com

Key messages

Extended business travelers are likely to be taxed on employment income relating to their Indian work days.

Income tax

RORs are taxed on worldwide income whilst NORs and NRs are generally taxed on India sourced income only

Residential status

An individual's Indian tax liability is determined by his/her residence status for the tax year. An individual can be a resident and ordinarily resident (ROR), resident but not ordinarily resident (NOR), or non-resident (NR) for Indian tax purposes.

Based on their residence status, an individual is taxable as follows:

- ROR – Liable to tax on worldwide income.
- NOR – Liable to tax on income sourced (i.e., accruing or arising/deemed to accrue or arise) from India or received/deemed to be received in India or from income derived from a business controlled or set up in India.
- NR – Liable to tax only on income sourced (i.e., accruing or arising/deemed to accrue or arise) from India or received/deemed to be received in India.

Definition of source

Salary for services rendered in India is deemed to accrue in India and hence, taxable in India for all individuals, irrespective of the place of receipt. Salary entitlements paid for leave periods before or after services rendered in India, pursuant to an individual's employment contract, are also deemed to have been earned for services rendered in India.

Foreign nationals may be exempt from tax in India if their stay in India does not exceed 90 days

Tax trigger points

Remuneration for services rendered by a foreign national, employed by a foreign enterprise during his/her stay in India, is exempt from tax in India if:

- The total period of the stay in India does not exceed 90 days in a financial year
- The foreign enterprise is not engaged in any trade or business in India and
- The remuneration is not charged to an employer subject to Indian income tax.

To the extent that the individual qualifies for relief in terms of the Dependent Personal Services article of the applicable double taxation treaty, there will be no tax liability. The treaty exemption will not apply if the Indian entity is his/her economic employer.

Types of taxable income

Individuals are taxable on income from one or more of the following categories:

- Salaries
- Income from house property
- Profits and gains of business or profession
- Capital gains
- Income from other sources

Income under each category is computed separately. The net result of all categories is aggregated to arrive at gross total income. Taxable income is determined by subtracting specified deductions from the gross total income.

Fringe benefits tax is levied on the employer

Fringe benefits, broadly non-cash employment income, are subject to fringe benefits tax, which is levied on the employer.

The maximum tax rate is currently 30 percent

Tax rates

Individuals are required to pay tax on their taxable income at graduated rates ranging from 10 percent to 30 percent. The maximum marginal tax rate is currently 30 percent on income earned over 500,000 Indian Rupees (INR).

Individuals are also required to pay a 10 percent surcharge on income earned over INR 1 million. An education cess of 3 percent on the aggregate of income tax and the surcharge is also levied.

Social security

Liability to social security

The Government of India has recently made fundamental changes in the Employees Provident Fund Scheme and the Employees Pension Scheme (collectively referred to as the Indian social security scheme), which will affect expatriates and their employers.

A new concept of "International Workers" has been introduced that includes expatriates (foreign citizens) working for an employer in India and Indian employees working overseas. International Workers will be required to join the scheme from 1 November 2008.

A relief mechanism has been provided for "Excluded Employees" which primarily refers to International Workers coming from a country with which India has entered into a Social Security Agreement (SSA). India currently has SSAs with Belgium, Germany and France. It is understood that India is in the process of signing SSAs with other countries, including the Netherlands, the Czech Republic, the United States, Spain, Portugal, Switzerland, Norway, and Sweden.

International Workers (other than Excluded Employees) are required to contribute 12 percent of their salary to the Indian social security scheme. Employers are also required to contribute 12 percent of their employees' salary to the scheme.

Compliance obligations

Tax returns are due by 31 July

Employee compliance obligations

Individual taxpayers must file their returns by 31 July following the tax year-end, which is 31 March.

Extensions of the filing deadline are not permitted. Where a taxpayer files a return after the due date, interest is levied at 1 percent per month (or part thereof) for each month filing is delayed.

Employer reporting and withholding requirements

Every employer has an obligation to deduct tax from their employees' remuneration at the time of payment.

Employers are required to issue employees with certificates reporting tax deducted from their salary

Employers are required to issue employees with certificates reporting tax deducted from their salary

The tax deducted is required to be deposited with the central Government within seven days from the end of the month of deducting the tax. A certificate is required to be issued to the employee in respect of tax deducted, within one month from the end of the tax year. The employer is also required to submit a return of tax deducted on a quarterly basis to the tax authority.

Other

Foreign nationals may be required to register with the FRRO

Work permit/VISA requirements

A visa must be applied for before the individual enters India. The type of visa required will depend on the purpose of the individual's entry into India.

Every foreign national arriving on a visa that is valid for more than 180 days in India has to get himself/herself registered with the Foreigner's Regional Registration Officer (FRRO) of the city in which he/she lives, within 14 days of his/her arrival.

India has an extensive tax treaty network

Double taxation treaties

In addition to India's domestic arrangements that provide relief from international double taxation, India has entered into double taxation treaties with more than 85 countries to prevent double taxation and allow co-operation between India and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Wealth tax/indirect tax

India does not impose an estate duty, but does impose wealth tax on specified assets. In addition, customs duty is payable on certain specified goods brought into India and other indirect taxes such as VAT/sales tax, expenditure tax, and service tax are payable on purchases of goods and services.

Transfer pricing

India has a transfer pricing regime.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

There are currently no data privacy laws in India.

Foreigners are permitted to receive some of their salary in a foreign currency

Exchange control

Under the Foreign Exchange Management Act of 1999, foreign nationals employed in India are permitted to receive up to 75 percent of their salary by credit to their accounts outside India. The remaining salary shall be paid in India in Indian Rupees and income tax is paid on the entire salary as accrued in India.

Salary received can be fully remitted outside India for living expenses of parents, spouse, and children residing abroad.

Non-deductible costs for assignees

There are currently no established guidelines with regard to costs that are non-deductible for employers or assignees.



Indonesia

Introduction

Indonesia adopts the self-assessment method for individuals to calculate, settle and report income tax. The extent of the Indonesian tax liability is dependent on the individual's residence status in Indonesia.

Contact

Esther Kwok

Tax Partner

Tel: +62 (21) 570 4888

Email: esther.kwok@kpmg.co.id

Key messages

Extended business travelers are likely to be taxed on employment income relating to their Indonesian work days. A permanent establishment may potentially be created via the visit of these business travelers. Corporations should be mindful of the visa used by their extended business travelers to Indonesia.

Income tax

Residents are subject to income tax on their worldwide income and capital gains

Liability to income tax

A person's liability to Indonesian tax is determined by his/her residence status. Residents are taxed on their worldwide income, including capital gains, regardless of where such income arises or if funds are remitted into the country. Taxable income is determined after subtracting allowable deductions and personal allowances.

A person is considered resident in Indonesia if he/she is present in Indonesia for a total period of more than 183 days in any 12-month period, or if he/she resides in Indonesia with the intention of staying.

Non-resident individuals are individuals who are not resident in Indonesia for tax purposes. Non-residents are assessed only on income sourced in Indonesia, including Indonesian sourced capital gains.

Definition of source

Employment income is generally treated as Indonesian sourced compensation where the individual performs the services whilst physically present in Indonesia.

Tax trigger points

Based on domestic income tax law, companies need to be aware that individuals providing services on behalf of an offshore company may trigger a tax position if:

- They are present in Indonesia for more than 60 days in any 12-month period
- The cost is borne or reimbursed by the domestic entity.

For the individual, technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Indonesia. To the extent that the individual qualifies for relief in terms of the

Dependent Personal Services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption varies depending on the test time and the applicable double tax treaty.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Indonesian sourced income.

Non-residents are subject to a 20 percent final withholding tax on their gross income

Tax rates

Net taxable income for residents is taxed at graduated rates. The current rates start from 5 percent up to a maximum of 35 percent for income earned over 200 million Indonesian Rupiah (IDR). New income tax rates will be effective from 1 January 2009. The revised maximum rate will be 30 percent for income earned over IDR 500 million.

Non-residents are subject to a final withholding tax of 20 percent on gross income.

Social security

Extended business travelers already participating in a social security scheme in their home country would not be required to contribute to JAMSOSTEK

Liability to social security

The national social security scheme (JAMSOSTEK) covers all employees and workers in public or private entities. The current pension contribution rate is 5.7 percent of an employee's gross salary (3.7 percent contributed by the employer and 2.0 percent contributed by the employee). Expatriates who are protected through similar social security schemes in their home countries are not required to join the program.

Extended business travelers who are already covered by similar schemes in their home countries would not be required to contribute to JAMSOSTEK.

The national social security scheme also requires employers to make contributions towards work accident insurance, death insurance, and health insurance. The contribution rates are dependent on the employer's industry.

Compliance obligations

Non-residents do not have to file an individual tax return

Employee compliance obligations

The tax year is the calendar year. Indonesia operates a self-assessment system whereby all individuals are required to complete a tax return and compute their tax liability by 31 March in the following tax year. Annual tax payments are due before this lodgment deadline.

In order to file a tax return, an individual must register to obtain a tax identification number (NPWP). Individual entrepreneurs and professionals, and also individuals who have tax payable because of their passive income are required to pay and file monthly returns by the 15th and the 20th of the following month, respectively.

Non-residents do not have an obligation to register for an NPWP or file an individual tax return.

Employer compliance obligations

The obligation to withhold and report tax on cash compensation paid in connection with employment rests with the employer entity. Income tax withheld by employers must be remitted on a monthly basis by the 10th day of the following month and reported by the 20th day of the following month.

Other Work permit/VISA requirements

Business travelers can obtain a visa on arrival for the purpose of business meetings for a period of either 6 or 30 days. This “business meeting” visa cannot be used for working in Indonesia. For the purposes of working, individuals are required to apply for a work visa, sponsored by an Indonesian entity, before entering Indonesia.

A certificate of domicile is required when applying for relief under a double tax treaty

Double taxation treaties

In addition to Indonesia’s domestic arrangements that provide relief from international double taxation, Indonesia has entered into double taxation treaties with more than 56 countries to prevent double taxation and allow co-operation between Indonesia and overseas tax authorities in enforcing their respective tax laws.

When applying for relief, a certificate of domicile should be presented.

Permanent establishment implications

A permanent establishment may be created through the provision of services in any form by an individual for more than 60 days in a 12-month period. However, the potential should be reviewed on a case-by-case basis and with a reference to the permanent establishment article of the applicable double tax treaty for the time test.

The VAT rate in Indonesia is 10 percent

Indirect taxes

The VAT rate generally applied to taxable goods and services is 10 percent. Sales tax on luxury goods may be as high as 75 percent. There are also regional taxes imposed by the local government on various facilities.

VAT registration may, in some circumstances, be required for a corporation or an entity. VAT registration by non-residents, however, is not permitted.

Transfer pricing

Not applicable

Local data privacy requirements

There are general privacy obligations under the Law of General Provision and Tax Procedures. These can be waived for the purposes of criminal investigation or by request/permission from the Minister of Finance.

Transfers exceeding USD 10,000 are required to be reported

Exchange control

Indonesia has no foreign exchange controls and funds may be freely transferred to and from abroad. Transfers exceeding USD 10,000, however, must be reported to the Bank of Indonesia.

All major currencies are freely convertible into IDR and deposit accounts can be maintained in foreign currencies.

Non-deductible costs for assignees

Where benefits-in-kind are not taxable to employees, they are non deductible for employer for corporate tax purposes. Benefits-in-kind, however, are taxable to employees working for employers who are only subject to final tax, are taxed on a deemed profit basis, or are representative offices (and have not been required to report their corporate income).



Japan

Introduction

Individual income taxes in Japan consist of a national income tax (NIT) and a local inhabitant tax (LIT). Tax treatment is dependent upon the residency status.

Contact

Masami Imokawa

Tax Partner

Tel: +81 3 6229 8000

Email: masami.imokawa@jp.kpmg.com

Income tax

Permanent residents are taxed on worldwide income while non-permanent residents are taxed on the greater of Japanese source income, regardless of where it is paid, or remittance into Japan plus income paid in Japan.

Non-residents are taxed on Japanese sourced income only.

Liability to income tax

A person's liability to Japanese tax is determined by his/her residency status. There are two categories of individual taxpayers, resident and non-resident.

A resident is an individual who has a domicile in Japan or has resided in Japan for a continuous period of one year or more. A resident is classified as either a non-permanent resident or a permanent resident.

A non-permanent resident is an individual who is not a Japanese national and has a domicile in Japan for more than 1 year and less than 5 years in the last 10 years.

A non-permanent resident is taxed on the greater of Japanese-source income, regardless of where it is paid or remitted from into Japan, plus income paid in Japan.

A permanent resident is someone other than a non-permanent resident. Therefore, an individual who is a Japanese national, who has a domicile in Japan or has resided in Japan for more than 5 years in the last 10 years is considered a permanent resident. A permanent resident is subject to income tax on worldwide income regardless of source.

A non-resident is an individual other than resident and has resided in Japan for less than one year. A non-resident is taxed only on Japanese-source income, without deductions or exemptions. If a non-resident is a resident of a country with which Japan has concluded a tax treaty, income may be either exempt or subject to a lower rate of tax. A non-resident is not subject to local inhabitant tax. Extended business travelers are likely considered non-residents for the Japanese tax purpose unless their assignment periods are one year or longer.

Definition of source

Employment income is considered to arise at the location in which employment services are rendered. Therefore, salary, wage, bonus, or similar remuneration paid to an employee for services performed in Japan is considered Japanese source income.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Japan.

Generally, Japan's double tax treaties are in line with OECD Model Treaty with respect to the tax-exempt treatment of foreign employees temporarily working in Japan. However, Japan does not adopt the economic employer concept when considering the application of a double tax treaty.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are Japanese source employment income.

Japan also levies a 10 percent local inhabitant tax

Tax rates

For residents, net taxable income is taxed at graduated rates ranging from 5 percent to 40 percent as national income tax, plus 10 percent local inhabitant tax. Non-residents are subject to national income tax at a flat rate of 20 percent. Non-residents are not subject to local inhabitant tax.

Social security

Liability to social security

The social insurance program in Japan consists of health insurance, nursing care insurance, pension insurance, employment insurance, and workmen's accident compensation insurance. Any individuals who meet the prescribed conditions are expected to participate in these systems as an insured person, regardless of nationality. Individuals who are paid from outside of Japan are not required to participate in these systems. An exemption can apply where there is a totalization agreement between Japan and the home country.

Compliance obligations

Tax returns are due by 15 March

Employee compliance obligations

Tax returns are due by 15 March following the tax year-end, which is 31 December. When a taxpayer leaves Japan, the taxpayer must file a tax return before the departure date or by 15 March of the following year if a tax agent is appointed. Extensions of the filing deadline are not available.

Employer reporting and withholding requirements

If compensation is paid through onshore payroll, the employer is required to withhold income tax on the payments. If the employer of non-residents has an office or place of business in Japan and compensation is paid to non-residents outside Japan, the employer is required to withhold non-resident income tax on payments.

Other

Work permit/VISA requirements

A visa must be applied for before the individual enters Japan. The type of visa required will depend on the purpose of the individual's entry into Japan.

Japan has an extensive tax treaty network

Double taxation treaties

In addition to Japan's domestic arrangements that provide relief from international double taxation, Japan has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow co-operation between Japan and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

The Japanese Corporation Tax Law provides three types of permanent establishments: a fixed place of business permanent establishment, a long-term construction project permanent establishment, and an agency permanent establishment.

There is potential that a permanent establishment of a foreign corporation could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has for the foreign corporation.

Indirect taxes

Consumption tax is applicable at 5 percent in respect of taxable supplies. Consumption tax registration may, in some circumstances, be required.

Transfer pricing

Japan has a transfer pricing regime.

Transfer pricing implications could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Japan has data privacy laws.

Exchange control

Not applicable.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employee to non-Japanese pension funds with minor exceptions.



The Lao People's Democratic Republic

Introduction

A person's liability to Laos tax is primarily determined by the source of the income. Income generated in the Lao PDR is subject to tax. There are no explicit income tax consequences arising from an individual being resident or non-resident, although the tax law does state that the law applies to foreign persons carrying on a business or earning a living in the Lao PDR, irrespective of the number of days spent there.

Contact

Ganesan Kolandavelu
Director
Tel: + 856 21 900344
Email: gkolandavelu1@kpmg.com

Key messages

Income arising in the Lao PDR is taxable in the Lao PDR. The taxation of income from other sources depends on the individual's ties to the Lao PDR.

Income tax

The Lao PDR imposes personal income tax on the Lao PDR sourced income of both residents and non-residents with the taxation of worldwide income being dependent on the ties which a taxpayer has to the Lao PDR.

Liability to income tax

A resident of the Lao PDR is generally understood to refer to an individual who earns a living "on a temporary or permanent basis" in the Lao PDR, or resides there. It also includes persons that have a place of business in the Lao PDR regardless of where income is generated.

A non-resident is subject to tax on his/her Laos-sourced income only.

Definition of source

There is no clear definition of what is considered Lao PDR sourced income. Employment income is generally treated as Laos sourced compensation where the individual performs the services in Laos and/or for the business of a Laos employer.

Tax trigger points

A resident or non-resident is subject to Lao PDR tax on Laos sourced income. Foreign individuals may also be subject to Lao tax depending on their ties to the country.

Types of taxable income

Assessable income includes income from employment including benefits, either in cash or in-kind.

Tax rates

A foreign person who is employed by an entity falling under the Foreign Investment Law (FIL) is subject to tax at a flat rate of 10 percent. The majority of expatriates currently working in the Lao PDR are subject to this regime.

A Lao PDR national or foreign person not covered by the FIL rate is subject to progressive rates up to 25 percent. The maximum tax rate is currently 25 percent on income over 15 million Lao Kip (LAK).

Social security

Employers and employees contribute to the Social Security Fund

Liability to social security

Employees are required to make contributions to the Social Security Fund amounting to 4.5 percent of the employee's salary, up to a maximum of LAK 67,500 per month (capped once an employee's salary exceeds LAK 1.5 million per month).

Employers are also required to contribute to the Social Security Fund for their employees. The rate of contribution to be made by the employer is 5 percent of the employee's salary, up to a maximum amount of LAK 75,000 per month.

Compliance obligations

Employers are required to withhold tax and remit this to tax authorities monthly

Employee compliance obligations

Residents are required to submit tax returns. There is no specific concept of "non resident" in Lao tax law; therefore, any individuals who are present in the country for less than 183 days would need to evaluate their compliance position on a case-by-case basis.

Employer reporting and withholding requirements

Employers are required to withhold income tax from salary and benefits paid to employees. Payment of salary tax to the tax authorities is made on a monthly basis, on or before the 10th day of the following month.

Payroll tax is also deducted at source by the employer on a monthly basis. Payment is due on or before the 15th of the following month.

Other

Work permit/VISA requirements

Hiring a foreign employee requires approval from the Labour Administration Agency (Ministry of Labour and Social Welfare). Foreign employees who enter into long-term contracts must apply for a business visa, ID card, and work permit, which must be sponsored by a company established in the Lao PDR.

The Lao PDR has a limited tax treaty network

Double taxation treaties

The Lao PDR has signed double taxation treaties with various countries including China, South Korea, North Korea, Vietnam, Brunei, Russian Federation, Kuwait, and Thailand.

Permanent establishment implications

There is no concept of permanent establishment in Lao PDR. In practice, the authorities expect any enterprises doing business in the Lao PDR for more than 30 days to register and pay tax. Foreign businesses with no physical activities in Lao PDR are also required to pay corporate tax on their Lao source income, potentially using Government established profitability ratios. The mechanism functions in a manner similar to withholding tax. Some double tax treaties may override this.

Laos levies turnover tax, a form of a goods and services tax

Indirect taxes

Turnover tax is a form of goods and services tax. The current applicable rates of turnover tax are 5 percent and 10 percent. The 5 percent and 10 percent rates are established on a supply-by-supply basis and there is no discernable pattern in the application of either.

Turnover tax is applied only if the person performing services receives a “service fee.” It would not apply to a typical employment contract.

Transfer pricing

There are currently no transfer pricing rules in the Lao PDR.

Local data privacy requirements

The Lao PDR currently has no data privacy laws.

Exchange controls

Foreign employees may repatriate their earnings after paying Lao PDR taxes.

Non-deductible costs for assignees

Non-deductible costs for assignees include payments without appropriate supporting documentation, or costs that may be deemed to be entertainment in nature.



Macau

Introduction

A person's liability to Macau Professional Tax (MPT) is determined by the source of income derived by him/her. Residents and non-residents are generally treated alike for MPT purposes

Contact

Jennifer Wong

Tax Partner

Tel: +852 2978 8288

Email: jennifer.wong@kpmg.com.hk

Key messages

Business travelers are taxed on remuneration in respect of services rendered in Macau.

Income tax

All Macau sourced income is subject to tax

Liability to income tax

MPT is levied on all personal income from employment and professional practices arising in or derived from Macau, regardless of the origin of payment, place of employment, or residency of taxpayers.

Definition of source

For MPT purposes, income will generally be regarded as arising in or derived from Macau if it is received in consideration for services performed in Macau.

Macau has double tax treaties with China and Portugal

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Macau.

Macau has double tax treaties with Mainland China and Portugal. To the extent that an individual qualifies for relief under the Dependent Personal Services article of the applicable double tax treaty, there will be no tax liability in Macau. The treaty exemption will not apply, however, to individuals under certain circumstances, such as where the remuneration is paid by an employer who is a resident of Macau or borne by a permanent establishment that the employer has in Macau.

Types of taxable income

MPT is levied on all service income, including remuneration from work, in cash or benefits-in-kind, fixed or variable and regardless of calculation method or the currency in which it is paid.

The maximum tax rate is 12 percent and a 25 percent reduction in MPT liability is temporarily allowed

Tax rates

The first 120,000 Macau Pataca (MOP) of an individual's taxable income is exempt from MPT. Progressive tax rates ranging from 7 percent to 12 percent

are levied on an individual's remaining taxable income. The maximum tax rate is currently 12 percent on income earned over MOP 400,000.

Pursuant to a special order applying from 2004, taxpayers are granted a 25 percent reduction in MPT liabilities.

Social security

Liability to social security

Employers are required to make monthly contributions of MOP 30 for resident employees and MOP 45 for non-resident employees. This is remitted to the Macau Social Security Fund on a quarterly basis.

Compliance obligations

Employees are only required to lodge tax returns in certain circumstances

Employee compliance obligations

Employees are only required to lodge their own tax returns and settle their liabilities personally in certain circumstances, such as where the employees are receiving remuneration from more than one employer in a year. In such a case, an individual is required to submit an MPT return no later than February of the following year.

Employer reporting and withholding requirements

An employer has an obligation to deduct MPT from the salary of its employees on a "pay-as-you-earn" basis. The withheld tax should be remitted together with the quarterly returns to the Macau Finance Services Bureau within 15 days before the end of each quarter (i.e., 15 April, 15 July, 15 October, and 15 January).

In addition, employers are obliged to lodge the MPT returns in respect of remuneration and tax withheld for all employees with the Macau Finance Services Bureau before the end of February each year.

Other

Work permits are required for non-residents working in Macau for more than 45 days within 6 consecutive months

Work permit/VISA requirements

A work permit is generally required for non-residents who stay continuously or intermittently in Macau for work or the provision of services for more than 45 days within 6 consecutive months.

Double taxation treaties

Macau has entered into double taxation treaties with Mainland China and Portugal to prevent double taxation.

Income earned by entities carrying on a business in Macau is subject to tax

Permanent establishment implications

There is no permanent establishment concept in Macau. However, income earned by entities carrying out business activities in Macau is subject to Macau Complementary Tax. Accordingly, there is potential for an entity to be considered to be carrying on a business in Macau as a result of its employees' activities in Macau, depending on the nature and extent of the services performed.

Indirect taxes

There is currently no VAT or GST levied in Macau.

Transfer pricing

Macau does not have a transfer pricing regime. However, the Macau Finance Services Bureau may review related-party transactions to ensure that the transactions are conducted on an arm's-length basis and are commercially justifiable.

Local data privacy requirements

Macau has data privacy laws formulated to protect personal data.

Exchange control

There are currently no exchange control regulations in Macau.

Non-deductible costs for assignees

Non-deductible costs for assignees include contributions by an employer to pension funds that are not approved by the Monetary Authority of Macau.



Malaysia

Introduction

Income tax in Malaysia is territorial in scope and based on the source principle regardless of the tax residency of the individual in Malaysia. The source of employment income is the place where the employment is exercised.

Contact

Pauline Tam

Tax Partner

Tel: +603 7721 7017

Email: pohlintam@kpmg.com.my

Key messages

Extended business travelers who are in Malaysia for more than 60 days are likely to be taxed on employment income attributable to their Malaysian assignments.

Income tax

Residents and non-residents in Malaysia are taxed on employment income accruing in or derived from Malaysia. Residence status only affects the amount of tax paid.

Liability to income tax

Generally, an individual becomes a tax resident for a year of assessment if the aggregate number of days he/she stays in Malaysia during the basis year is 182 days or more.

Income derived from Malaysia by residents and non-residents is subject to Malaysian tax irrespective of where the employment contract is made or where the remuneration is paid. Employment income is regarded as Malaysian derived income if the employment activities are exercised in Malaysia.

Definition of source

Malaysian sourced income is defined as income accruing in or derived from Malaysia. Employment income is generally treated as Malaysian source compensation where the individual performs the services whilst physically located in Malaysia.

Tax trigger points

A non-resident individual who exercises employment in Malaysia for not more than 60 days is exempt from Malaysian tax. An individual whose employment period in Malaysia exceeds 60 days would be taxable unless the individual is able to seek exemption from Malaysian tax under the Dependent Personal Services of the relevant double tax treaty.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and other Malaysian sourced income.

The maximum tax rate will be reduced to 27 percent in 2009

Tax rates

A tax resident individual would be subject to tax at graduated rates ranging up to 28 percent after the deductions of personal reliefs (such as relief for a dependent spouse, life insurance premiums and medical expenses).

The maximum tax rate is currently 28 percent on income earned over 250,000 Malaysian Ringgit (RM) for residents. It is proposed that from the Year of Assessment 2009, that the maximum tax rate will be reduced to 27 percent.

A non-tax resident individual would be taxed at a flat rate of 28 percent. Non-tax residents are not entitled to personal relief deductions. It is proposed that from the Year of Assessment 2009, the tax rate will be reduced to 27 percent.

Social security

Liability to social security

The Social Security Organization (SOCSO) is a scheme to provide certain benefits to employees in cases of employment injury including occupational diseases and invalidity and for certain other matters in relation to the employment. Employees covered by this scheme are those whose wages do not exceed RM 3,000 per month. The current rates of contribution vary from RM 0.10 to RM 14.75 per month for the employee and from RM 0.40 to RM 51.65 per month for the employer.

Foreign employees are generally not required to contribute to SOCSO as their wages generally exceed RM 3,000 per month.

Malaysian employees are also required to be contributors to the Employees Provident Fund (EPF). The employee's and employer's contributions are required to contribute 11 percent and 12 percent, respectively, of the employee's wages to the EPF.

Foreign employees have the option of becoming members of the EPF. The minimum statutory contribution by the foreign employee and employer will be 11 percent of the foreign employees' wages and RM 5, respectively.

Compliance obligations

Tax returns are due by 30 April

Employee compliance obligations

The tax year, commonly called the year of assessment, runs from January 1 to December 31. Tax returns are required to be lodged by April 30 of the following year. However, for individuals who derive business income, the filing deadline is extended to June 30 of the following year.

It is mandatory for employers to withhold tax and remit this to the MIRB monthly

Employer reporting and withholding requirements

Tax withholdings from employment income are covered by the Scheduler Tax Deductions (STD) system. Under the STD system, it is mandatory for an employer to deduct tax from an employee's monthly cash remuneration (whether it is paid in Malaysia or outside Malaysia) and perquisites of each of the employees, based on the STD schedule issued by the Malaysian Inland Revenue Board (MIRB).

The tax deducted during a calendar month has to be remitted to the MIRB not later than the 10th day of the following calendar month via the Statement of Tax Deduction by an Employer (Form CP39).

It should also be noted that the STD applicable to an employee who is not resident or not known to be resident, shall be at the rate of 28 percent (27 percent with effect from 2009) of his cash remuneration and perquisites.

Other Work permit/VISA requirements

Entry into Malaysia may or may not require a visa depending on the citizenship of the individual. The type of work permit required will depend on the purpose of the individual's entry into Malaysia.

Qualification for treaty relief is not automatic.

Double taxation treaties

Malaysia has concluded double tax treaties with 68 countries to prevent double taxation and allow co-operation between Malaysia and overseas tax authorities in enforcing their respective tax laws. Qualification for treaty relief is not automatic. An application has to be made to the MIRB by providing proof that an individual is able to qualify for tax exemption under treaty relief.

Permanent establishment implications

A permanent establishment could potentially be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Malaysia levies a 5 percent service tax

Indirect taxes

A 5 percent service tax is chargeable on the value of taxable services provided by a taxable person. The tax applies throughout Malaysia except for Langkawi, Labuan, Tioman, the Joint Development Area (JDA) and Free Zones.

Transfer pricing

Malaysia has a transfer pricing regime.

Transfer pricing and tax implications could arise where an employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Malaysia currently does not have data privacy laws.

Exchange control

The present exchange control regime applies uniformly to transactions with all countries except Israel, against which special restrictive rules apply.

Non-deductible costs for assignees

Employment costs are generally deductible to the employer, except costs in relation to overseas leave passage, which are non-deductible.



Mongolia

Introduction

A person's liability to Mongolian tax is determined by his/her residence status for taxation purposes and the source of income derived by him/her.

Contact

Adrian Lee
Partner
Tel: +603 7721 3116
Email: allee@kpmg.com.my

Key messages

Extended business travelers are likely to be taxed on employment income relating to their Mongolian work days.

Income tax

Residents are taxed on worldwide income whilst non-residents are generally taxed on Mongolian sourced income only

Liability to income tax

A person's liability to Mongolian tax is determined by his/her residence status. A person can be a resident or non-resident for Mongolian tax purposes.

A resident of Mongolia generally refers to an individual who resides in Mongolia, an individual who resides in Mongolia for 183 days or more in a tax year, or a civil servant of Mongolia appointed to work overseas.

The 183 days or more period criteria is based on the number of days in a calendar year an individual is present in Mongolia, from the day of entry. In the case of multiple entries into Mongolia, it is determined based on the total number of days of the individual is present in Mongolia.

A foreign national appointed at a foreign diplomatic mission, consulate, the United Nations, and their branches and his/her family members who reside in Mongolia shall not be residents of Mongolia for income tax purposes.

An individual who has no place of residence in Mongolia and has not resided in Mongolia for 183 days or more in a tax year shall be a non-resident taxpayer.

An individual who is a resident of Mongolia is assessable on his/her worldwide income whilst a non-resident is assessable on income derived directly or indirectly from sources in Mongolia.

Definition of source

Employment income is generally treated as Mongolian sourced compensation where the individual performs the services whilst physically located in Mongolia.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Mongolia.

To the extent that the individual qualifies for relief in terms of the Dependent Personal Services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Mongolian entity is his/her economic employer.

Types of taxable income

The following income of a taxpayer earned in a tax year shall be subject to tax: salary; wage; bonus; incentive; income from activities; income from properties; income from sale of properties; income of a herdsman family and individual with livestock; income from creation of scientific; literary, and artistic works; invention, product design and useful design; organizing and participating in sports competition; art performance; income from quiz, gambling and lottery winnings; and fringe benefits.

Most income is taxed at 10 percent

Tax rates

Net taxable income is generally taxed at a flat rate of 10 percent. There are, however, exceptions to this, whereby different percentages are charged for different types of income, including:

- Income from immovable property, which is taxed at 2 percent
- Income from scientific, literary, and art work and remuneration from sports competition, which is taxed at 5 percent
- Income from laying a wager or lottery winnings, which are taxed at 40 percent.

Social security

Liability to social security

Mongolia has an extensive social security system that covers benefits relating to retirement, loss of ability to work, sickness, unemployment and death.

Both employees and employers are required to make social security contributions. The current rate of contribution is capped at 10 percent of the employee's salary or 108,000 Mongolian Tugrik (MNT) (whichever is lower) for employees. Employers are required to contribute 11 to 13 percent of an employee's salary. The two major components of social security contributions are social insurance and health insurance.

Social insurance premiums are paid on a monthly basis. Employers are required to withhold social insurance premiums owed by employees from their salaries and remit this to the insurance authority. The monthly premiums paid by employees and employers are required to be paid by the 5th of the following month.

Compliance obligations

Tax returns are due 15 February

Employee compliance obligations

Individual tax forms must be submitted to the tax authority by 15 February following the tax year-end, which is 31 December.

Employer reporting and withholding requirements

Employers are required to withhold income tax from their employees and submit a “quarter-to-date” report of tax withheld by the 20th of the first month of the following quarter and also submit a year-to-date tax report by 15 February of the following year to the tax authority.

Other

Visa/work permits require an invitation letter from a Mongolian company

Work permit/VISA requirements

Depending on the individual’s nationality, a visa/work permit is usually required for an individual to enter Mongolia. An invitation letter from a locally incorporated company in Mongolia must be sent to a Mongolian Embassy at the individual’s location at the time of application, e.g., Beijing, Erlian, and Singapore, etc. prior to the approval of the application for a Mongolian visa.

Double taxation treaties

In addition to Mongolia’s domestic arrangements that provide relief from international double taxation, Mongolia has entered into double taxation treaties with 29 countries to prevent double taxation and allow co-operation between Mongolia and overseas tax authorities in enforcing their respective tax laws.

Amongst the countries in which Mongolia has a double taxation treaty with are China, France, Germany, Italy, Malaysia, the Netherlands, the Republic of Korea, the Russian Federation, Singapore, Switzerland, and the United Kingdom.

Permanent establishment implications

A permanent establishment could potentially be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT of 10 percent applies to a legal entity with sales revenues of goods sold, work performed, or services provided in the territory of Mongolia of MNT 10 million or more. A person or legal entity may register voluntarily as a value-added taxpayer where certain conditions are met.

Transfer pricing

Mongolia has a transfer pricing regime for legal entities in Mongolia whereby related-party transactions below or above fair market value can be subjected to the tax authority’s review to determine any required gross taxable income adjustments.

Local data privacy requirements

Mongolia has data privacy laws.

Exchange control

Mongolia currently has no foreign exchange control regulations.

Non-deductible costs for assignees

Not applicable.



New Zealand

Introduction

Individuals are subject to income tax on their worldwide income whilst tax resident in New Zealand.

Contact

Murray Sarelius

Tax Partner

Tel: +64 9 363 3458

Email: mvsarelius@kpmg.co.nz

Key messages

Extended business travelers are likely to be taxed on employment income relating to their New Zealand work days, unless relief is obtained under New Zealand domestic legislation or an applicable double tax agreement.

Income tax

Residents are taxed on worldwide income. Transitional residents are taxed on their New Zealand sourced income, and any employment income derived overseas. Non-residents are taxed on their New Zealand sourced income only.

Liability to income tax

A person's liability for New Zealand tax is determined by their residence status. A person can be a resident, a transitional resident, or a non-resident for tax purposes. A resident of New Zealand generally refers to an individual who is present in New Zealand for more than 183 days in any 12-month period, or who has a permanent place of abode in New Zealand. A transitional resident is a new tax resident of New Zealand who has been non-resident for 10 years prior to arriving in, or returning to, New Zealand. A non-resident of New Zealand is generally someone who spends less than 183 days in any 12-month period in New Zealand, and does not have a permanent place of abode in New Zealand.

The general rule is that a person who is a resident of New Zealand is assessable on worldwide income. Non-residents and transitional residents are generally assessable on income derived directly or indirectly from sources in New Zealand. Transitional residents are also taxable on foreign sourced employment income.

Extended business travelers are likely to be considered non-residents of New Zealand for tax purposes depending on their personal circumstances.

Definition of source

Employment income is generally treated as New Zealand sourced compensation where the individual performs the services whilst physically located in New Zealand.

92 day domestic law exemption

Tax trigger points

Employment income derived in New Zealand may not be taxable where the employee is present in New Zealand for less than 92 days in a tax year, performing services on behalf of a person who is not resident in New Zealand, and the income derived is taxed in the country in which the person is resident.

Double tax treaty relief

Alternatively, a double tax treaty may provide relief if an individual is present in New Zealand for less than 183 days in a 12-month period, the remuneration paid is on behalf of a non-resident employer that does not have a permanent establishment, and the remuneration is taxable in the country of residence.

Types of taxable income

For extended business travelers who are non-residents of New Zealand, and do not get the above exemptions or relief, the income that is generally taxed in New Zealand includes remuneration for New Zealand based employment and New Zealand sourced income such as interest or dividends from New Zealand companies.

Fringe benefits tax is levied on the employer

Fringe benefits, broadly non-cash employment income, are subject to fringe benefits tax, which is levied on the employer.

Social security

Superannuation contributions are not compulsory

Liability to social security

New Zealand has a social security system funded through income taxes. This scheme is aimed at assisting people, and a number of benefits exist.

Accident compensation is another benefit under the welfare system. However, this is primarily funded by employers and employees. The employer levy is determined by their industry classification, while the employee levy is charged at a flat rate (1.4 percent on earnings up to NZD 102,922 for the 2009 tax year).

There is no compulsory superannuation saving in New Zealand. There is, however, a Government-run voluntary workplace savings scheme called KiwiSaver, which applies to any resident employers, employers who carry on business from a fixed establishment in New Zealand, or non-resident employers who elect into the regime. Compulsory employer contributions will increase from 1 percent (in the 2009 income year) by 1 percent each year to 4 percent in the 2012 income year.

Compliance obligations

Tax returns are due by 7 July

Employee compliance obligations

Tax returns are due by 7 July following the tax year-end, which is 31 March. Tax agents can obtain an extension to the following 31 March. Tax returns are required to be filed by non-residents who derive any New Zealand sourced income (other than New Zealand dividend, interest income, or royalties, which are subject to final withholding tax).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable in respect of employment income, the payer has a PAYE withholding requirement. This will include situations where an employer is non-resident and no exemptions or relief applies, such as the 92-day and 183-day exemptions.

Tax may have to be withheld from payments made to non-resident contractors

A non-resident employer may be considered a non-resident contractor where any employee who is present in New Zealand for more than 92 days in a tax year is performing services on behalf of the non-resident employer for another entity in New Zealand, and payments are made by the New Zealand entity to the non-resident employer in respect of those services.

Any contract payments made by the New Zealand entity to the non-resident employer would be treated as withholding payments liable for withholding tax deductions. An exemption certificate may be issued by the IRD to remove this withholding obligation, if the IRD is satisfied that for the income sourced in New Zealand there is no income tax liability pursuant to a double tax treaty.

Other Work permit/VISA requirements

A visa may need to be applied for before an individual can enter New Zealand, depending on which country the individual is from. A work visa or work permit may need to be obtained before an individual is able to work in New Zealand.

Double taxation treaties

In addition to New Zealand's domestic arrangements that provide relief from international double taxation, New Zealand has entered into double taxation treaties with 35 countries to prevent double taxation and allow co-operation between New Zealand and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed, the functions and level of authority of the employee, and the specific terms of any applicable double tax treaty.

Indirect taxes

GST is applicable at 12.5 percent in respect of taxable supplies. GST registration may, in some circumstances, be required.

Transfer pricing

New Zealand has a transfer pricing regime.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

New Zealand has data privacy laws.

Exchange control

Not applicable.

Non-deductible costs for assignees

Not applicable.



Papua New Guinea

Introduction

A person's tax liability in Papua New Guinea (PNG) is determined by his/her residence status for taxation purposes and the source of income derived by him/her. Only resident individuals are entitled to tax rebates and credits for foreign tax paid.

Contact

Lynette Morris

Tax Partner

Tel: +675 321 2022

Email: lynette_morris@kpmg.com.pg

Key messages

Extended business travelers are likely to be taxed on employment income relating to work done in PNG.

Income tax

Residents are taxed on worldwide income whilst non-residents are generally taxed on PNG sourced income only

Liability to income tax

A person's liability to PNG tax is determined by his/her residence status. A person can be a resident or non-resident for PNG tax purposes. A resident of PNG generally refers to an individual who is domiciled in PNG or who stays in PNG continuously or intermittently for more than six months in any year of income. A non-resident of PNG is one who is domiciled outside PNG and who does not stay in PNG for more than six months.

The general rule is that a person who is a resident of PNG is assessable on his/her worldwide income. Non-residents are generally assessable on income derived directly or indirectly from sources in PNG.

Definition of source

Employment income is generally treated as PNG sourced compensation where the individual performs the services whilst physically located in PNG.

Tax trigger points

Earnings for any work done in PNG are normally taxable in PNG.

Types of taxable income

For extended business travelers, the types of PNG income that are generally taxed are employment income and PNG sourced income such as interest or dividends.

Non-residents do not have a tax-free threshold

Tax rates

Net taxable income is taxed at graduated rates ranging up to 42 percent. The tax rates for non-residents are the same as those for residents, with the exception that non-residents do not benefit from a tax-free threshold.

The maximum rate is currently 42 percent on income earned over 250,000 Papua New Guinea Kina (PGK) for both residents and non-residents.

Social security

Liability to social security

Superannuation is a mechanism requiring individuals to save money for retirement. It is prescribed that employers make a minimum contribution of 8.4 percent of the employee's salary (capped at 15 percent of salary) into an Authorized Superannuation Fund. The minimum employee contribution is 6 percent of their salary. However, superannuation contributions are not mandatory for expatriates.

Compliance obligations

Tax returns are due by 28 February

Employee compliance obligations

Tax returns are due by 28 February following the tax year-end, which is 31 December. Where a tax agent is used, there is an automatic extension.

Tax returns are required to be filed by non-residents who derive any PNG sourced income (other than PNG dividend or interest income, which are subject to final withholding tax).

Employer reporting and withholding requirements

Withholdings from employment income are covered under the salary and wages tax system. If an individual is taxable in respect of employment income, the payer has a salary and wages tax withholding requirement.

In addition, employers may be liable to payroll tax where the annual payroll exceeds certain threshold levels.

Other

Work permit/VISA requirements

A work permit and visa must be applied for before the individual enters to work in PNG.

PNG has double tax treaties with more than 10 countries

Double taxation treaties

PNG has entered into double tax treaties with more than 10 countries to prevent double taxation and allow co-operation between PNG and overseas tax authorities in enforcing their respective tax laws. There is relief in the double tax treaties by which residents of other countries would not be subject to salary and wages tax in PNG under certain conditions.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and whether the home country of the employee has a double tax treaty with PNG.

Indirect taxes

GST is levied at a 10 percent of on taxable supplies of most goods and services. GST registration is required if annual turnover is in excess of PGK 100,000.

Transfer pricing

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

PNG currently does not have data privacy laws.

*Tax clearance from the IRC
may be required to repatriate
amounts from PNG*

Exchange control

PNG has foreign exchange control laws, which amongst other measures, require approval from the exchange control authority for the opening and operation by residents of a bank account outside PNG and the transfer or physical removal of cash in excess of PGK 20,000 (or a foreign currency equivalent).

A tax clearance certificate is required from the Internal Revenue Commission (IRC) to repatriate amounts exceeding PGK 200,000 in any calendar year. This can be obtained if the employee's tax affairs are up-to-date.

Non-deductible costs for assignees

Employee expenses of a private nature are non-deductible to the employer.



Philippines

Introduction Resident citizens are taxed on their income from all sources. A person who is not a citizen of the Philippines (i.e., is an alien), regardless of whether he/she is a resident or non-resident, is taxed only on his/her income from Philippines sources. Likewise, non-resident citizens are taxed only on their income from Philippines sources.

Contact

Herminigildo G Murakami
Tax Principal
Tel: +63 (2) 885 7000 x 418
Email: hmurakami@kpmg.com

Key messages

Extended business travelers are likely to be taxed on employment income relating to their Philippines work days.

Income tax **Liability to income tax**

The liability of aliens to Philippines tax is determined by their residence status. An alien who is present in the Philippines for at least two years is a resident alien. An alien who stays in the Philippines for less than two years is considered a non-resident alien. There are two classifications of a non-resident alien:

- Engaged in trade or business in the Philippines
- Not engaged in trade or business in the Philippines.

A non-resident alien engaged in trade or business (NRAETB) is one who stays in the Philippines for more than 180 days during the calendar year. If he stays in the Philippines for less than 180 days, he is considered a non-resident alien not engaged in trade or business (NRANETB).

The taxable income of citizens, resident aliens, and NRAETB is defined as gross compensation and net business income less personal allowances. The taxable income of NRANETBs are their gross income.

Non-resident citizens and aliens are subject to income tax on Philippine sourced income only

Resident citizens are subject to Philippine income tax on worldwide income. Non-resident citizens and aliens are subject to Philippine income tax on their Philippine source income only, e.g., employment income and passive income.

Definition of source

Employment income is generally treated as Philippine sourced compensation where the individual performs the services whilst physically located in the Philippines.

Tax trigger points

Extended business travelers will be taxable in the Philippines on income derived in respect of services rendered in the Philippines. It is important to ascertain whether they will be taxed as NRAETBs or NRANETBs, i.e., whether they were in the Philippines for more or less than 180 days as this will impact the tax rate applicable.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and other Philippines sourced income.

NRANETBS are taxed at a flat rate of 25 percent

Tax rates

Net taxable income of citizens, residents aliens and NRAETBs is taxed at graduated rates ranging from 5 percent to 32 percent. The maximum rate is currently 32 percent on income earned over 500,000 Philippine Pesos (PHP).

NRANETBs are taxed at a flat rate of 25 percent unless a lower rate is applicable under a double tax treaty or special law.

Social security

Liability to social security

Each employer is required to deduct an amount from the salary of each employee for premium contributions remittable to a Social Security fund and the Medicare System to finance the retirement, sickness, disability, health and other social security benefits of the employee. The employer is also required to remit a counterpart contribution for the employee. The amount of premium contributions by the employer and employee depends on the salary bracket of each employee, based on a pre-calculated table of contributions.

Compliance obligations

Income tax returns are due by 15 April

Employee compliance obligations

An individual taxpayer is taxable on a calendar year basis. In general, every citizen, resident alien and NRAETB in the Philippines is required to file an income tax return. The return must be filed and the net tax is due on or before 15 April following the close of the year covered by the return.

Employers are required to withhold tax from the employee's compensation

Employer compliance obligations

Tax is required to be deducted at source from employment income. Certain payments to individuals engaged in businesses are subject to the expanded withholding tax, such as rentals, commission and professional fees. Excess tax withheld may be refunded or carried over in the succeeding taxable years, at the option of the taxpayer.

The employer is required to withhold the tax due from the employee's compensation income and remit the same to the tax authorities. If the correct amount of tax due has been properly withheld during the calendar year, the employee may qualify for substituted filing, in which case, there is no need for the employee to file an annual income tax return. A NRAETB, however, is not qualified for substituted filing.

Other

Aliens are required to show proof that they paid their income tax when they renew their visa.

Work permit/VISA requirements

A visa must be applied for before the individual enters the Philippines. The type of visa required will depend on the purpose of the individual's entry into the Philippines.

For aliens renewing their Philippine visa, the Philippine Bureau of Immigration and Deportation requires them to show proof that they paid their income tax in the preceding year. For individuals who are required to file a return, the proof would be their Philippine income tax return. For those not required to file a return, a certificate of taxes withheld issued by the withholding agent may suffice.

Double taxation treaties

In addition to the Philippines' domestic arrangements that provide relief from international double taxation, the Philippines has entered into double taxation treaties with 38 countries to prevent double taxation and allow co-operation between the Philippines and overseas tax authorities in enforcing their respective tax laws.

Tax treaty relief, however, is not automatic. A confirmation from the tax authorities in the form of a Bureau of Internal Revenue Ruling is generally required.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT of 12 percent is imposed on sales made, in the course of trade or business of goods, properties and services in the Philippines and on the importation of goods to the Philippines (regardless of whether the importation is for business use).

Transfer pricing regulations are being drafted

Transfer pricing

The Philippines, as a matter of policy, subscribes to the OECD's Transfer Pricing Guidelines as its Interim Transfer Pricing Guidelines while the draft of the Revenue Regulations on Transfer Pricing is still pending. Until the Revenue Regulations on Transfer Pricing is issued, any and all concerns/issues in the interim related to transfer pricing shall be resolved in accordance with the principles laid down by the OECD Transfer Pricing Guidelines.

Local data privacy requirements

The Philippines currently does not have data privacy laws.

Exchange control

The Philippines has liberalized foreign exchange rules and regulations. Generally, foreign exchange receipts, acquisition, or earnings may be sold to or outside of the banking system, or may be brought in or out of the country.

Domestic contracts entered into by Filipino citizens can be settled in any currency.

Non-deductible costs for assignees

The personal and additional exemptions of PHP 50,000 and PHP 25,000 for each qualified dependant are not deductible to the employer. The said exemptions are deductible only from the gross compensation income of the assignee for the purposes of calculating his/her personal income tax liability in the Philippines.



Singapore

Introduction

Singapore income tax is imposed on a territorial basis whereby the individual is generally taxed on all income accruing in or derived in Singapore. Since the year of assessment 2005, foreign sourced income received in Singapore by resident individuals is exempt from tax unless the income is received through a partnership in Singapore.

Contact

B J Ooi
Executive Director
Tel: +65 6213 2657
Email: boonjinooi@kpmg.com.sg

Key messages

A frequent business traveler whose stay in Singapore exceeds 60 days in a calendar year will be subject to tax in Singapore on the income derived from his/her services performed in Singapore.

Income tax

Liability to income tax

A person's liability to Singapore tax is determined by his/her residence status. A person can be a resident or non-resident for Singapore tax purposes. A tax resident of Singapore generally refers to an individual who resides in Singapore and includes a person who is physically present in Singapore or exercises employment (other than a director of a company) for 183 days or more during the year preceding the year of assessment. A non-resident of Singapore is generally someone who spends less than 183 days in Singapore during the year preceding the year of assessment.

Foreign sourced income of resident individuals is generally exempt from tax. Non-residents are taxed only on Singapore sourced income.

For foreign individuals (excluding directors of a company and public entertainers) who commence working in Singapore from 1 January 2007 and whose stay or work in Singapore is for a continuous period of at least 183 days straddling two years, he/she may be regarded as a tax resident for both years.

A resident is taxed on all income accrued in or derived from Singapore. Effective from the year of assessment 2005, all foreign-sourced income received in or remitted into Singapore by a resident individual (except through a partnership in Singapore) is exempt from tax. Non-residents are taxed only in income accrued in or derived from Singapore.

Source of employment income

Employment income is generally treated as Singaporean-sourced if the services are performed in Singapore, regardless of where the payment is made or the contract of employment is concluded.

Types of taxable compensation

As a general rule, all payments (whether in the form of cash or in-kind) made by an employer to an employee in respect of his/her employment in Singapore are taxable in the hands of the employee, unless specifically exempted under the Income Tax Act or by concession.

A person working in Singapore for less than 61 days in a year may be exempt from tax

Tax trigger points

A short-term visiting employee who exercises employment in Singapore for not more than 60 days in a calendar year (other than as a director or a public entertainer) is exempt from tax.

Based on the above, a frequent business traveler whose stay in Singapore exceeds 60 days in a calendar year would be subject to tax in Singapore on the income derived from his/her work performed in Singapore.

To the extent that the individual qualifies for exemption under the conditions of the Dependent Personal Services Article of the applicable Double Tax Treaty, there will be no tax liability.

The maximum tax rate is 20 percent

Tax rates

A resident is taxed on his/her chargeable income (after deducting applicable personal reliefs) at graduated rates ranging from 3.5 percent to 20 percent. Non-residents are subject to tax on employment income at a flat rate of 15 percent or at the resident tax rates, whichever is higher. Other income of a non-resident individual is generally taxed at 20 percent unless specifically exempt or subject to a reduced treaty rate.

Social security

Foreigners are exempt from participating in the CPF scheme

Liability to social security

All foreign individuals are currently exempted from participation in the Central Provident Fund (CPF), Singapore's national pension scheme. However, upon becoming a permanent resident of Singapore, participation in the CPF is statutory.

Compliance obligations

The tax filing deadline is 15 April

Employee compliance obligations

Income tax returns (i.e., Form B1/B/M) are issued by the Inland Revenue Authority of Singapore (IRAS) in January each year. Individuals are required to complete and submit the form to the IRAS by 15 April. The IRAS may grant extension of time beyond 15 April if there are valid reasons.

Except in certain departure cases, employers are not required to withhold taxes from employees, but must provide employees with a Form IR8A by 1 March

Employer reporting and withholding requirements

There is no requirement for the employer to withhold monthly taxes from the employee. Employers, however, are required to complete a return of remuneration form (Form IR8A) setting out the various payments under the employment for the year. The form is to be completed and given to employees by 1 March of the following year. Beginning with year of assessment 2009, employers with 100 or more employees must electronically file the Form IR8A under the Auto-Inclusion Scheme.

In the case of departing non-Singapore citizens, written notice (i.e., Form IR21 – Notice of Cessation of Employment of non-Singapore Citizens) must be given at least one month prior to the date the person ceases employment in or leaves Singapore permanently or for a period exceeding three months. In addition, the employer must retain any money that is due to the employee. The employer can only release the money to the employee when the IRAS grants the tax clearance or upon the expiry of 30 days after the receipt by IRAS of the Form IR21.

Other

Foreigners are required to have an EP to work in Singapore

Work permit/VISA requirements

A foreigner who wishes to work in Singapore would have to apply to the Work Pass Division, Ministry of Manpower Singapore, for an Employment Pass (EP), to enable him/her to take up employment in Singapore. An EP will usually be issued to a foreigner who holds an acceptable degree, professional qualification, or specialist skills and whose monthly salary is above a set amount.

Singapore has an extensive tax treaty network

Double taxation treaties

Singapore has entered into double taxation treaties with more than 50 countries to mitigate double taxation and allow co-operation between Singapore and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of frequent business travel but this would generally be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

GST is currently applicable at 7 percent in respect of domestic consumption. GST is levied on the sale of goods and services in Singapore by GST-registered traders, and on goods imported into Singapore. Businesses whose turnover exceeds SGD 1 million are required to register for GST.

Transfer pricing

While there is no specific legislation covering transfer pricing in Singapore, the IRAS has issued transfer pricing guidelines that should be applied.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Singapore has data privacy laws.

Exchange control

Singapore does not currently impose exchange controls

Non-deductible costs for assignees

Non-deductible costs incurred by employers relating to assignees generally include private passenger car expenses and medical expenses exceeding a certain cap.



South Korea

Introduction A person's liability to South Korean ("Korean") tax is determined by his/her residence status for taxation purposes and the source of income derived by him/her.

Contact

Kim Ui Sung
Tax Partner
Tel: +82 (2) 2112 0922
Email: ukim@kr.kpmg.com

Key messages

Tax compliance procedures for employers and expatriate employees depend on the nature of the employment income.

Income tax

A resident is an individual who is domiciled or resident in Korea for one year or more.

Liability to income tax

A person's liability to Korean tax is determined by his/her residence status. The general rule is that a person who is resident of Korea is assessable on his/her worldwide income. Non-residents are only assessable on income sourced in Korea. A resident is an individual who is domiciled or resident in Korea for one year or more. A non-resident is an individual other than a resident.

Generally, extended business travelers would be considered non-resident in Korea for tax purposes. Foreign workers may qualify for exemption under the relevant double tax treaty where the duration of their stay is six months or less and their salary is not paid by or borne by a Korean entity.

Definition of source

Employment income is generally treated as Korean sourced where the individual performs the services whilst physically located in Korea.

A tax obligation does not occur until the expatriate commences work in Korea

Tax trigger points

Technically, there is no minimum number of days that exempts the employee from the requirements to file and pay tax in Korea. The tax obligation for Korean sourced income, however, does not occur until the expatriate commences work in Korea.

Types of taxable income

There are two kinds of employment income – Class A income and Class B income.

Class A income is employment income received in Korean Won (KRW) or in foreign currency for services rendered in Korea, which are expensed by a domestic entity for tax purposes. Class B income is employment income received in a foreign currency outside Korea for services rendered in Korea and not expensed by a domestic entity for tax purposes.

Other types of income that may be taxed include retirement income and capital gains.

Expatriates can elect to apply a 17 percent flat tax rate

Tax rates

Net taxable income of resident individuals is taxed at graduated rates ranging from 8 percent to 35 percent.(1) The maximum tax rate is currently 35 percent on income earned over KRW 88 million. Individuals resident in Korea are also assessed a per capita resident tax by their local Government in the amount of KRW 10,000 or less.

Tax rates for non-residents are the same as that for residents. However, expatriates can elect to apply a 17 percent(2) flat tax rate to total Korean sourced employment income. Expatriates are also allowed to exclude 30 percent of their total Korean sourced employment income from taxable income if flat tax rate is not elected.

Individuals liable for payment of income tax in Korea are assessed an additional resident tax at the rate of 10 percent of the income tax amount.

[NOTE: (1) The Korean Government has recently announced a plan to reduce the rates by 1 percentage point in 2009 and another 1 percentage point in 2010. After the tax revision, the new rates for the 2009 tax year will range from 7 percent to 34 percent.

NOTE: (2) According to the same tax revision plan, flat tax rate is also expected to decrease from 17 percent to 15 percent effective tax year 2009.]

Social security

The employer and employee are required to contribute to the National Pension for the employee

Liability to social security

The National Pension is a mechanism requiring individuals to save money for retirement. The current contribution rate is 9 percent of an employee's gross salary (4.5 percent contributed by the employer and 4.5 percent contributed by the employee), capped at KRW 162,000 per month, each, unless there is a totalization agreement with the home country.

Expatriates with D-7, D-8, D-9, or similar visa types are required to participate in Employment Insurance unless they are exempt under a reciprocal principle.

Expatriates are subject to Industrial Accident Insurance unless exempt under applicable totalization agreements. The required contribution is borne entirely by the employer. The applicable rate ranges from 0.7 percent to 55.3 percent.

Expatriates are also required to participate in National Health Insurance unless they remain on an overseas payroll and the associated compensation costs are not charged back to Korea (i.e., Class B income). An exemption maybe available if expatriates are covered by employer-sponsored foreign medical insurance.

Compliance obligations

Tax returns are due by 31 May

Class B income earners must file a tax return

Employee compliance obligations

Tax returns are due by 31 May following the tax year-end, which is 31 December. Taxpayers who have only Class A income are not required to file an annual tax return. Class B income earners must file a tax return of their composite income on or before 31 May of the year following the tax year or join a taxpayer's association and pay the required taxes on a monthly basis through the association.

Taxpayers who leave Korea permanently must file a final tax return prior to their departure for the period 1 January to their date of departure.

Employer reporting and withholding requirements

For Class A employees, employers are required to withhold payroll taxes monthly, finalize the employee's tax liability and issue a finalized settlement certificate at the end of the tax period. Employers are not required to withhold taxes at the time of payment of Class B income.

Other Work permit/VISA requirements

A visa must be applied for before the individual enters Korea. The type of visa required will depend on the purpose of the individual's entry into Korea.

Double taxation treaties

In addition to Korea's domestic arrangements that provide relief from international double taxation, Korea has entered into double taxation treaties with up to 70 countries to prevent double taxation and allow co-operation between Korea and overseas tax authorities in enforcing their respective tax laws.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority they have.

Indirect taxes

VAT of 10 percent is imposed on the supply of goods and services and the importation of goods.

Transfer pricing

Under the International Tax Co-ordination Law, the tax authorities have authority to adjust a transfer price based on an arm's-length price and determine or recalculate a resident's taxable income when the transfer price used by a Korean company and its foreign related party is either below or above the arm's-length price. The arm's-length price should be determined by the most reasonable method applicable to the situation, which will depend on the nature and complexity of services performed.

Local data privacy requirements

Korea has data privacy laws.

Exchange control

All transactions involving foreign exchange in Korea or flows of capital between Korean residents and non-residents are controlled according to the provisions of the Foreign Transactions Law.

Non-deductible costs for assignees

Non-deductible costs for assignees include costs of a foreign company's equity-based compensation that are charged back to a local company.



Sri Lanka

Introduction

The extent of an individual's liability to Sri Lankan tax on his/her earnings depends on his/her residence status in Sri Lanka. The maximum rate of tax in Sri Lanka is currently 35 percent.

Contact

Premila Perera

Tax Partner

Tel: +94 115426 501

Email: premilaperera@kpmg.com

Key messages

Expatriates are likely to be taxed on employment income relating to their Sri Lankan sourced income.

Income tax

Residents are taxed on worldwide income whilst non-residents are taxed on income arising or derived from Sri Lanka.

Liability to income tax

A person's liability to Sri Lankan tax is determined by his/her residency status. An individual, who is physically present in Sri Lanka for 183 days or more during any year of assessment, shall be deemed to be resident in Sri Lanka throughout that year of assessment.

An individual who has been deemed resident for two or more consecutive years of assessments shall be deemed to be resident until such time as he/she is continuously absent from Sri Lanka for an unbroken period of 365 days (visits to Sri Lanka not exceeding 30 days in total, during this period are ignored). When a person is so absent, he/she will be deemed to be a non-resident from the beginning of the year of assessment in which he/she was absent.

Residents are assessable on their worldwide income, while non-residents are liable only on their income arising or derived from Sri Lanka.

Tax exemption for non-citizens

A non-citizen employed in Sri Lanka is also exempt from income tax on income arising and derived outside of Sri Lanka.

Definition of source

Employment income is generally treated as Sri Lankan sourced compensation where the individual performs the services whilst physically located in Sri Lanka.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Sri Lanka.

To the extent that the individual qualifies for relief in terms of the Dependent Personal Services article of the applicable double tax treaty, there will be no tax liability.

Types of taxable income

In general, all remuneration and benefits received by an employee who is resident in Sri Lanka or for services rendered in Sri Lanka are taxable. Taxable remuneration and benefits includes salary, bonuses, commissions, accommodation allowances, education allowances for children, employer provided domestic assistance and contributions to medical, dental sickness, and disability plans.

Tax rates for residents and non-residents are the same

Tax rates

Net taxable income is taxed based on progressive income tax rates ranging from 5 percent to 35 percent. The tax rates and tax thresholds applied to non-residents are the same as those for residents.

Social security

The EPF and ETF provides superannuation benefits to employees

Liability to social security

The regulations regarding the Employees' Provident Fund (EPF), which provides for the payment of superannuation benefits to employees, prescribes that employers make a minimum contribution of 12 percent of an employee's total earnings into the EPF. Employees are also required to contribute a minimum of 8 percent of their total earnings into the EPF.

Both employers and employees are required to contribute to the EPF

The EPF contribution rules may not, however, apply to expatriate employees who are employed in a managerial, executive, or technical employment, and who are members of a pension scheme or any other fund or scheme established or administered outside Sri Lanka.

Employees are not required to contribute to the ETF

The regulations for the Employees' Trust Fund (ETF), which also provides for the payment of superannuation benefits to employees, require employers (but not employees) to contribute 3 percent of their employees total earnings in the fund. This requirement may, if applicable, be waived for an employer with regard to their expatriate employees' if such expatriates contribute towards a foreign superannuation fund and do not contribute towards a provident fund in Sri Lanka.

Compliance obligations

Tax returns are due by 30 September

Employee compliance obligations

Tax returns are due by 30 September following the tax year-end, which is 31 March.

All individuals are required to submit a tax return to the Department of Inland Revenue (DIR) with the exception of individuals whose income comprises solely of one or a combination of the following:

- Profits from employment that do not exceed 420,000 Sri Lanka Rupee (LKR), where Pay-As-You-Earn (PAYE) tax has been deducted by the employer
- Dividend income, where tax at a rate of 10 percent has been deducted at source
- Interest income, where tax at a rate of 10 percent has been deducted at source.

If an employee is not within the PAYE scheme, tax payments can be made in quarterly installments on a self-assessment basis.

Employer reporting and withholding requirements

Under the PAYE scheme, every employer is required to withhold income tax from the remuneration paid to its employees. Annual returns of employee income and taxes paid in the tax year to 31 March are required to be filed with the DIR on or before 30 April of that year.

Other Work permit/VISA requirements

A visa must be applied for before the individual enters Sri Lanka. The type of visa required will depend on the purpose of the individual's entry into Sri Lanka.

Double taxation treaties

Sri Lanka has entered into double taxation treaties with 36 countries. A foreign tax credit is available where Sri Lanka taxes foreign-sourced income if it is provided for in the relevant double tax treaty. In the absence of a treaty, income net of tax is subject to Sri Lankan tax.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

There are three tiers of VAT rates

Indirect taxes

VAT is levied on the importation of goods into Sri Lanka and the making of taxable supplies in the course of carrying out a taxable activity. The VAT rate levied (either 5 percent, 15 percent, or 20 percent), depends on nature of the taxable supply.

Transfer pricing

Sri Lanka has a transfer pricing regime; however, Sri Lanka's transfer pricing regulations do not extend in scope to cover employment benefits.

Local data privacy requirements

Sri Lanka does not currently have data privacy laws.

Exchange control

The Exchange Control Act specifies that foreign personnel engaged in contracts with the government or private organizations in Sri Lanka are permitted to maintain resident current accounts that may be credited with inward remittance and payments made in respect of such contracts.

It has also been the practice to permit expatriate employee earnings to be remitted offshore without exchange control permission or restriction.

Non-deductible costs for assignees

Non-deductible costs for both an assignee and an employer will include contributions by an employer to pension funds which are not approved by the Commissioner General of Inland Revenue and insurance premiums paid for policies issued outside of Sri Lanka.



Taiwan

Introduction

The tax legislation of Taiwan for individuals is based on source principles. Generally, only income derived from activities or work carried out in Taiwan, or other income from sources in Taiwan, is subject to tax.

Contact

Stephen Hsu

Tax Partner

Tel: +886 (2) 81016666 ext 01815

Email: stephenhsu@kpmg.com.tw

Key messages

Extended business travelers who are in Taiwan for 90 days or less will either be subject to no tax in Taiwan (if the expatriate's compensation is paid by a foreign employer with no recharge to a Taiwanese enterprise) or there will be a 20 percent withholding tax if the expatriate's compensation is paid by a Taiwanese enterprise.

Income tax

Individuals paid by foreign employers who remain in Taiwan for 90 days or less in a calendar year are not taxed

Liability to income tax

A person's liability to Taiwanese tax is determined by his/her residence status. An individual is considered resident if he/she remains in Taiwan for 183 days or more and he/she will be taxed on remuneration received for services rendered in Taiwan.

An individual is considered to be non-resident if he/she remains in Taiwan for 90 days or less in a calendar year. There is no tax payable if the expatriate's compensation is paid by a foreign employer with no recharge to a Taiwanese enterprise. However, if the compensation is paid by a Taiwanese enterprise or charged back to a Taiwanese enterprise from a foreign employer, a 20 percent withholding tax applies on the compensation for services rendered in Taiwan.

A 20 percent withholding tax applies to non-residents paid by Taiwanese employers

An individual is also considered to be non-resident if he/she remains in Taiwan for more than 90 days but less than 183 days. The individual will be taxable on remuneration received for services rendered in Taiwan and a 20 percent withholding tax will apply. A non-resident tax return should be filed.

Definition of source

Employment income is generally treated as Taiwanese sourced compensation where the individual performs the services whilst physically located in Taiwan.

Tax trigger points

Where an individual remains in Taiwan for 90 days or less, he/she may remain exempt from Taiwanese tax to the extent that he/she is paid by a foreign employer with no recharge to a Taiwanese enterprise.

Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income.

There is no capital gains tax in Taiwan.

Non-residents are subject to 20 percent tax on their gross income

Tax rates

A resident's net taxable income is taxed at graduated rates ranging from 6 percent to 40 percent. The maximum tax rate is currently 40 percent on net taxable income earned over 4,090,001 Taiwan Dollars (TWD).

For non-residents subject to tax in Taiwan, the applicable tax rate will be fixed at 20 percent of gross income.

Social security

Liability to social security

A Taiwanese enterprise normally makes a contribution of 6 percent of earnings into a retirement fund for its employees. There is no requirement for Taiwan enterprises to contribute to a retirement fund for expatriates if the expatriate's compensation is paid by a foreign employer, with no recharge to a Taiwanese enterprise.

National health insurance contributions are required to be made by the employer and employee at 2.73 percent and 1.365 percent of gross salary, respectively. The insurable amount capped at a ceiling.

Labor insurance premium contributions are also required to be made by the employer and employee. The insurance rate is currently 6.5 percent to 11 percent of gross salary, depending on the type of employer. The insurable amount capped at a ceiling.

Compliance obligations

Tax returns must be filed by May 31

Employee compliance obligations

Income tax returns must be filed and any tax due paid by 31 May of the following year of assessment (being the year ended 31 December). No extension is granted and interest is charged on any underpaid tax after 31 May. There are also penalties for omissions and failure to file a tax return.

The tax compliance rules are the same for residents and non-residents.

Employer compliance obligations

For a taxpayer receiving salaried income, the Taiwanese employer must withhold tax payable at the time of payment as per the prescribed rates and withholding procedures, and report and pay the tax withheld in accordance with the provisions of the tax law.

Taiwanese employers are not subject to payroll tax.

Other

Work permit/VISA requirements

Foreign nationals and overseas Chinese citizens must apply for a visa before entering Taiwan. There are three main types of visas – landing, visitor and resident visas. The type of visa required will depend on the purpose of the individual's entry into Taiwan.

Double taxation treaties

In addition to Taiwan's domestic arrangements that provide relief from international double taxation, Taiwan has entered into double taxation treaties with more than 15 countries to prevent double taxation and allow co-operation between Taiwan and overseas tax authorities in enforcing their respective tax laws.

The qualifying expatriate is required to submit the supporting documents at the time of filing the annual income tax return.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Business Tax, in the form of GBRT and VAT, is imposed on the importation of goods into Taiwan and the sale of goods and services within Taiwan.

The current rate for GBRT and VAT is 5 percent. In certain circumstances, the rates may be reduced to 2 percent or zero percent.

Other indirect taxes include Customs Duty, Stamp Duty, and Land Tax, etc.

Transfer pricing

Taiwan has a transfer pricing regime.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Taiwan has data privacy laws.

Exchange control

There are generally no currency restrictions for inbound and outbound transfers by residents of Taiwan. However, approval from the authorities is required if the annual amount of inbound and outbound remittance made by a resident exceeds USD 5 million.

Non-deductible costs for assignees

Non deductible costs for both an assignee and an employer include contributions to non-Taiwan pension funds.



Thailand

Introduction

A person's liability to Thai tax is determined by his/her residence status for taxation purposes and the source of income derived by him/her.

Contact

Benjamas Kullakattimas
Tax Partner
Tel: +66 2 67724246
Email: benjamas@kpmg.co.th

Key messages

Every person, resident or non-resident, is taxed on employment income derived from employment or business carried on in Thailand regardless of whether such income is paid in or outside of Thailand.

Income tax

Thailand imposes personal income tax on the Thai sourced income of both residents and non-residents.

Residents are also taxed on foreign sourced income to the extent that it is paid in or remitted to Thailand in the year it is received.

Liability to income tax

A person's liability to Thai tax is determined by both residence and source rules. A resident of Thailand for tax purposes refers to an individual who is present in Thailand for a total of at least 180 days in a tax year (being the calendar year).

The general rule is that a person who is either a resident or non-resident of Thailand is assessable on income derived from sources in Thailand. A resident is also subject to Thai tax on foreign sourced income, but only if that income is remitted to Thailand in the same year it is received.

Extended business travelers are considered non-residents of Thailand for tax purposes unless they are present in Thailand for more than 180 days in the tax year.

Definition of source

Employment income is generally treated as Thai sourced compensation where the individual performs the services in Thailand and/or performs the services for the business of the employer in Thailand.

Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Thailand.

To the extent that the individual qualifies for relief in terms of the Dependent Personal Services article of the applicable double tax treaty, there may be no tax liability.

Types of taxable income

Assessable income includes income from employment including benefits either in cash or in-kind. There are limited categories of income that are specifically excluded from assessable income by virtue of Section 42 of the Revenue Code.

The maximum tax rate applies to income earned over THB 4 million

Tax rates

Net taxable income is taxed at progressive rates up to 37 percent.

The maximum tax rate is currently 37 percent on income over 4 million Thai Baht (THB) in the case of both residents and non-residents.

Social security

Liability to social security

Resident and non-resident employees are required to make contributions to Thailand's Social Security Fund. Contributions to the Social Security Fund are made by employees and employers in equal proportions. The present rate of contribution to be made by each party is 5 percent of the employee's salary, up to a maximum amount of THB 750 per month.

The contributions must be deducted by the employer at source and remitted to the Social Security Fund on a monthly basis.

Compliance obligations

Tax returns are due by 31 March

Employee compliance obligations

Tax returns are due by 31 March following the tax year-end, which is 31 December.

Employer reporting and withholding requirements

Employers are required to withhold income tax from salaries and benefits paid to employees. A monthly withholding tax return must be filed with the tax authorities by the employer by the 7th of the following month. Employers are also required to file an annual withholding tax return with the tax authorities by the end of February following the tax year-end, which summarizes total income paid and tax withheld for the previous tax year.

Other

Work permit/VISA requirements

A foreigner entering Thailand to work must obtain a non-immigrant visa from the Royal Thai Embassy or Consulate. This visa entitles the foreigner to apply for a work permit.

Thailand has an extensive tax treaty network

Double taxation treaties

Thailand has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow co-operation between Thailand and overseas tax authorities in enforcing their respective tax laws.

Claims for double tax relief are not required to be submitted. It is the onus of the taxpayer to determine whether the relief is applicable.

Permanent establishment implications

A permanent establishment may potentially be created as a result of extended business travel but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT is applicable at 7 percent in respect of taxable supplies. VAT registration is not required in respect of employment income.

Transfer pricing

Thai Revenue Code empowers the tax authority to assess deemed income if the services are provided without consideration.

A transfer pricing implication could arise if the employee is being paid by an entity in Thailand but performing services for the benefit of another entity.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Thailand has data privacy laws.

Exchange controls

Thailand has foreign exchange control laws, which amongst other measures, limit the amount of Thai currency that a traveler may take out of Thailand to THB 50,000. Authorized banks, however, are allowed to conduct the majority of foreign exchange transactions without Government control.

Non-deductible costs for assignees

Non-deductible costs for assignees include payments that are not for or related to the employer's business.



Vietnam

Introduction

Foreigners will be subject to Vietnamese Personal Income Tax (PIT) based on their physical presence in Vietnam and the source of income derived by them.

Contact

Ho Thi Bich Hanh
Tax Director
Tel: +84 8 8219266 ext 8232
Email: hbho@kpmg.com.vn

Key messages

Employees with an extended presence are taxed only on their employment income relating to their work days or their days present in Vietnam, unless they stay in Vietnam for more than 182 days in a taxable year.

Income tax

Vietnamese tax residents are taxed on worldwide income whilst non-tax residents are taxed on Vietnam sourced income only

Liability to income tax

A foreign person's liability to Vietnamese tax is determined by his/her residence status. If a foreigner is present in Vietnam for more than 182 days in a taxable year, he/she is treated as a Vietnamese tax resident and is taxed on his/her worldwide income. A non-tax resident of Vietnam is a foreigner who stays in Vietnam for less than 183 days in a taxable year and is subject to tax on Vietnam sourced income.

Vietnamese nationals are deemed as Vietnamese tax residents.

Definition of source

Vietnam-sourced income is income earned or received in relation to the employment of that foreign individual in Vietnam, regardless of the origin or country where the remuneration is paid.

Tax trigger points

Technically, there is no specific rule regarding when an assignee is treated as entering the country before their assignment. In practice, the tax authority accepts that the official assignment date is the first day the assignee earns income in Vietnam and the assignee shall declare income from that day. The arrival date, however, is the first date of the first tax year.

Capital gains tax is determined on a case-by-case basis

Types of taxable income

For employees with an extended presence, the types of income that are generally taxed are employment income, including salary, wages, regular and irregular bonuses, overseas allowance, expatriate premiums and benefits for working in Vietnam.

The application of capital gains tax is currently unclear and determined on a case-by-case basis.

The top marginal rate of tax is 40 percent

Tax rates

The tax rates and tax thresholds for employment income vary depending upon whether the individual is a Vietnamese citizen, tax resident, or non-tax resident for tax purposes.

Tax residents of Vietnam are taxed at progressive tax rates ranging from 10 percent to 40 percent. The top marginal rate is 40 percent on income earned over 40 million Vietnamese Dong (VND) for Vietnamese citizens and VND 80 million for foreign tax residents and Vietnamese citizens working overseas.

Non-residents of Vietnam are subject to tax at a flat rate of 25 percent on their Vietnam sourced income.

Social security

Contributions rates for the Statutory Social Scheme will be increased to 22 percent in 2010

Starting from 1 January 2009, employees and employers will contribute the same rate of 1 percent for unemployment social security based on the base level used for calculation of compulsory social insurance.

Liability to social security

Vietnamese nationals are required to contribute to the social insurance fund, which provides employees who make contributions to the fund with benefits and payments for sickness, maternity leave, work related accident and illness, pension/retirement, and death. The current contribution rate is 20 percent of the relevant base (being 5 percent contributed by the employee and 15 percent contributed by the employer). The contribution rate will be increased for 2010–2011 to 22 percent of the relevant base.

Statutory health insurance contributions are also required to be made by the employer and employee at 2 percent and 1 percent of gross salary, respectively.

Foreigners in Vietnam are not required to contribute to the statutory social scheme or the health insurance scheme.

Compliance obligations

Tax returns are due by 31 March

Non-residents are required to declare the number of days they were present in Vietnam

Employee compliance obligations

Annual tax returns are due by 31 March following the tax year-end, which is 31 December (or 45 days from the completion or termination of an employment contract). Non-residents are also required to submit a declaration of the days they were present in Vietnam at year-end.

Employer reporting and withholding requirements

Employers must withhold the relevant percentage of their employees' personal income and deposit the monthly amount with the State Treasury no later than the 20th of the following month and any shortfall between the finalized tax liability and the cumulative monthly payments by 31 March of the following year (or within 45 days from the completion or termination of the employee's employment contract – whichever is earlier).

Other

Work permit/VISA requirements

A visa must be applied for before the individual enters Vietnam. The type of visa required will depend on the purpose of the individual's entry into Vietnam.

Foreigners working in Vietnam for three months or more are required to apply for a work permit in Vietnam, unless they are otherwise exempted as provided under the relevant regulations.

Taxpayers must apply to the tax authority for double taxation relief

Double Taxation Treaties

In addition to Vietnam's domestic arrangements that provide relief from international double taxation, Vietnam has entered into double taxation treaties with more than 45 countries to prevent double taxation and allow co-operation between Vietnam and overseas tax authorities in enforcing their respective tax laws.

This is not an automatic process. A notification applying tax exemptions or using tax credits under a double tax treaty must be filed with the Vietnamese tax authority at the beginning of the Vietnam assignment and in each calendar year. Documentation, including a certificate of tax residence in the other country, is required in order to claim a tax exemption, a tax refund, or credit for the tax paid overseas.

Permanent establishment implications

There is potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

VAT is applicable at 10 percent in respect of taxable supplies. Lower rates of 0 percent or 5 percent may be applied to some goods or services. A legal establishment in Vietnam that applies the Vietnamese Accounting System is required to have VAT registration.

Transfer pricing

Circular 117, which applies to assessments from the 2006 tax year, gives the tax authority extensive powers to make transfer pricing adjustments to non-arm's-length related-party transactions or where a taxpayer fails to comply with disclosure requirements.

A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, i.e., a cross-border benefit is being provided.

This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

There are no data privacy laws.

Exchange control

Foreign currencies remitted out of the country are strictly controlled and permits must be obtained from the State Bank of Vietnam. Foreigners can take out up to USD 7,000 (or equivalent in a foreign currency) without having to declare the amount to customs. Excess amounts must be declared.

Generally, foreign currency can be remitted out of the country with proof of payment of applicable taxes.

Non-deductible costs for assignees

Not applicable.

Note: Effective from 1 January 2009, the first Personal Income Tax Law will replace the current tax regulations, which provides a number of significant changes in taxation. Please contact us for more information.

**For further information
please contact :**

Rosheen Garnon

Global Chair International
Executive Services
KPMG in Australia
Tel: +61 2 9335 7255
Email: rgarnon@kpmg.com.au

Richard Ellard

Asia Pacific Regional Tax Partner
KPMG in Singapore
Tel: +65 6213 3982
Email: richardellard@kpmg.com.sg

The information contained herein is of a general nature, based on the prevailing law and practices of each country at the time of publication, and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

KPMG does not accept responsibility for losses, damages, costs and other consequences resulting directly or indirectly from using this information.

To the maximum permitted by law, KPMG excludes all liability to any person arising directly or indirectly from using this information.

© 2008 KPMG International. KPMG International is a Swiss cooperative. Member firms of the KPMG network of independent firms are affiliated with KPMG International. KPMG International provides no client services. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm. All rights reserved. Printed in Australia.

KPMG and the KPMG logo are registered trademarks of KPMG International.
19995NSS