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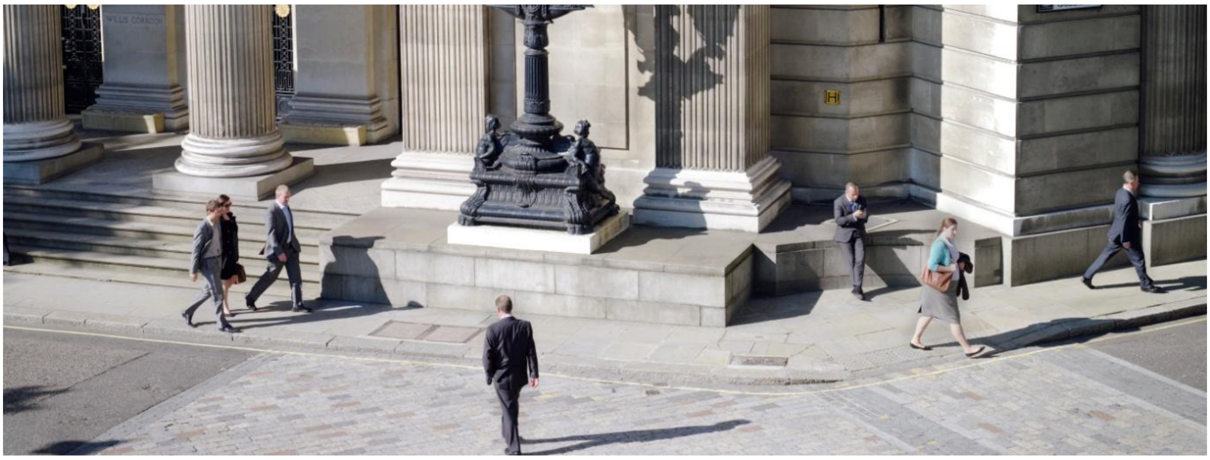
Recent legislative updates



This month's issue addresses recent tax and legal changes in various jurisdictions, such as:

- France - Update on tax withholding requirements for dividend payments
- Ireland - Employer reporting obligations for unapproved employee share plans eased - Form RSS1
- Malaysia - Guidance on employer reporting obligations and the taxation of internationally mobile employees
- Russia - New liability rules for foreign bank accounts
- Singapore - Abolishment of the Equity Remuneration Incentive Scheme (ERIS) on equity compensation
- Spain - New tax reporting obligations for assets and rights held outside of Spain
- Switzerland - Swiss electorate votes for strict compensation regulation

Country summaries

For a more comprehensive discussion, please see *Country Discussions* starting on page 4.

France

Update on tax withholding requirements for dividend payments

As detailed in this February 2013 Update, starting January 1, 2013, dividend income will be subject to French income tax at progressive tax rates. The election for a flat withholding tax is abolished. Instead, a tax of 21% (plus social surtaxes) must be withheld on dividends paid to French tax resident shareholders as an 'installment' towards the annual taxes due. Guidelines and instructions issued by the French government indicate that the withholding obligation will rest with the shareholder where the company is not located in the European Union. It is important that companies paying dividends to French resident employees communicate this new withholding and reporting requirement to those affected.

Ireland

Employer reporting obligations for unapproved employee share plans eased - Form RSS1

Since 2010, employers are required to submit Form RSS1 ("Return of Share options and other rights") annually by March 31st for reporting related to all unapproved employee share plans (see this February 2010 Update for some background). The Irish Revenue have recently issued a new 2012 version of the form which has been shortened as only the grant, exercise, release and assignment of share options and other rights are required to be declared for 2012. There is no longer a requirement to report other share awards such as Restricted Stock Units and Restricted Shares.

Malaysia

Guidance on employer reporting obligations and the taxation of internationally mobile employees

With the issuance of the new Public Rulings (“PR”) on Employee Share Scheme Benefit (PR No. 11/2012) and Share Scheme Benefit for Cross Border Employees (PR No. 12/2012), companies implementing employee share plans in Malaysia should review their reporting requirements in order to ensure they remain compliant in Malaysia. Please refer to the discussion section for more details.

Russia

New liability rules for foreign bank accounts

Receiving proceeds under incentive plans to a foreign bank account of a Russian participant is generally considered an "illegal currency transaction". PwC-Russia has always recommended for participants to receive proceeds via Russian bank accounts and recommended using Russian bank accounts in order to forward any payments. Effective February 13, 2013, the liability rules for foreign bank accounts have changed.

Singapore

Abolishment of the Equity Remuneration Incentive Scheme (ERIS) on equity compensation

An unexpected development in the area of equity compensation was received when the Singapore Budget was announced on February 25, 2013. The Equity Remuneration Incentive Scheme ("ERIS"), which was established after the release of the Singapore budget in 2008 will be abolished later this year. The ERIS includes the ERIS (SMEs), ERIS (All Corporations), and ERIS (Start-Ups) and details the tax treatment of gains for share based compensation schemes. The ERIS provides generous tax exemption for qualifying gains, subject to meeting certain conditions and exemption limits. With its abolishment, new grants made after the expiration of the applicable ERIS scheme will no longer qualify for any exemptions.

Spain

New tax reporting obligations for assets and rights held outside of Spain

Effective as of January 1, 2013, a new reporting obligation has been introduced in connection with assets and rights located outside of Spain. This reporting obligation ("Form 720") is effective with regard to the 2012 tax year. Form 720 needs to be filed electronically before April 30, 2013 (March 31st from 2014 onwards). The regulations establish that Spanish tax resident entities and individuals should file an information return to declare assets or rights they have outside Spain when the value of those assets/rights exceeds EUR 50,000 at any given time in the year. Please refer to the discussion section for more details.

Switzerland

Swiss electorate votes for strict compensation regulation

Following the international trend towards more regulation of compensation in the financial services industry, on March 3, 2013, the Swiss public voted in favour of the “Minder Initiative” ("the Initiative") by a majority vote of 68%. As a result of the Initiative, Switzerland will introduce one of the strictest regulations on executive compensation and corporate governance. The regulations will affect all Swiss companies whose shares are quoted on a Swiss or overseas stock exchange, their governing bodies and their shareholders. The Initiative will go into effect upon finalization of the "transitional ordinance", however the Swiss Federal Council has until March 2014 to finalize it.

Country discussions

France

Update on tax withholding requirements for dividend payments

As detailed in this February 2013 Update, starting January 1, 2013, dividend income will be subject to French income tax at progressive rates. The election for a flat withholding tax is abolished. A withholding tax of 21% (plus social surtaxes) must be withheld on dividends paid to French tax resident shareholders as an 'installment' towards the annual taxes due. Recent guidelines and instructions issued by the French government indicate that the withholding obligation will rest with the shareholder where the entity is not located in the European Union. Therefore, for multinational companies headquartered in the US, the obligation to pay the required taxes will lie solely with the French shareholder.

Where the withholding obligation rests with the shareholder, the shareholder must remit the withholding tax and file the corresponding return themselves by the 15th of the month following the month in which the dividend is paid. Failure to do so may trigger interest for late payment and a penalty of at least 10% of the tax due.
The withholding tax paid will be credited against the shareholder's final French income tax liability or it will be reimbursed if the shareholder's final tax liability is lower (i.e., the 21% paid in 2013 will be deducted from income tax due in 2014).

However, shareholders with taxable income as shown on their last income tax bill below EUR 50,000 (for single taxpayers) / EUR 75,000 (for taxpayers filing jointly), are not required to pay the withholding tax or file the corresponding return. Instead, the tax due on the dividends will be calculated by the French tax authorities and is payable by the shareholders after issuance of the annual tax bill.

The government released the relevant forms and reporting guidelines for this new requirement this month and, therefore, has extended the first filing date for dividends paid in January to March 15.

Ireland

Employer reporting obligations for unapproved employee share plans eased - Form RSS1

Since 2010, employers are required to submit Form RSS1 ("Return of Share options and other rights") annually by March 31st for reporting related to all unapproved employee share plans (see this February 2010 Update for some background). Form RSS1 for the 2012 tax year has been shortened as only the grant, exercise, release and assignment of share options and other rights are required to be declared for 2012.

In a positive development, there is no longer a requirement to report other share awards, such as convertible share plans, forfeitable share plans, discounted and free share (restricted share) plans and restricted stock unit plans separately on Form RSS1. This is because since January 1, 2011, all share awards with the exception of share options, are within the scope of the PAYE withholding system and employers are required to withhold income tax, USC and, where appropriate, employee social security (PRSI) at source via payroll when the employees receive beneficial ownership of the shares. Employers should be aware that they will still need to retain records of all share awards delivered as part of their employer payroll/PAYE input records. It is only the separate RSS1 reporting requirement that has been eased for 2012.

Employers are also reminded that employee share awards continue to be exempt from a charge to employer social security (PRSI).

In addition, employers who operate Irish Revenue approved employee share schemes (Approved Profit Sharing Schemes – APSS & Form ESS1; Save As You Earn Option Schemes – SAYE & Form SRSO1 and Employee Share Ownership Trusts – Form ESOT1) must also make a return of 2012 transactions to Revenue by March 31, 2013.

Malaysia

Guidance on employer reporting obligations and the taxation of internationally mobile employees

With the issuance of the new Public Rulings ("PR") on Employee Share Scheme Benefit (PR No. 11/2012) and Share Scheme Benefit for Cross Border Employees (PR No. 12/2012), companies implementing employee share plans in Malaysia (regardless of whether local / global plan or participated by local / internationally mobile employees) have the tax obligations set out below.

Where a right to acquire shares is granted in respect of a Malaysian employment, the local employer is required to report the taxable share income in:

1. The respective employee's 2012 annual income statement (Form EA) for distribution to employees by end of February 2013, and
2. The company's Return of Remuneration by an Employer (Form E) for filing by March 31, 2013.

PR No. 12/2012 provides an apportionment method for globally mobile employees who are granted equity benefits with a specific vesting period. Employers can determine the taxable benefit based on the employee's period of employment in Malaysia during the vesting period.

The IRB has verbally confirmed that for year of assessment 2012, if the employer has already computed the taxable benefit based on the general sourcing principle (i.e., report in full if the employee was exercising employment in Malaysia at the time of grant), they can maintain this method for 2012 reporting and prior years.

It is recommended that companies review the above reporting requirements in order to ensure they remain compliant in Malaysia. We direct you to this PwC-Malaysia Alert for more information.

Russia

New liability rules for foreign bank accounts

Receiving proceeds under incentive plans to a foreign bank account of a Russian participant is generally considered an "illegal currency transaction". PwC-Russia has always recommended for participants to receive proceeds via Russian bank accounts and recommended using Russian bank accounts in order to forward any payments.

Effective as of February 13, 2013, the liability rules for foreign bank accounts have changed. The changes expand the definition of illegal currency transactions to include those that are performed with violations of currency legislation but are not expressly prohibited by the law. Examples of such illegal currency transactions include:

- Crediting dividends and gains on securities sales to foreign accounts;
- Receiving salary paid to employees by foreign companies, as well as other compensation (e.g., pensions or insurance payments), to foreign accounts;
- Any transaction involving illegally transferred funds, including transfers of such funds to bank accounts in Russia.

We direct you to this PwC-Russia Alert for more information.

Singapore

Abolishment of the Equity Remuneration Incentive Scheme (ERIS) on equity compensation

An unexpected development in the area of equity compensation was received when the Singapore Budget was announced on February 25, 2013. The Equity Remuneration Incentive Scheme ("ERIS"), which was established after the release of the Singapore budget in 2008, will be abolished later this year. Following this budget announcement, the existing EEEBR and CEEBR Schemes were combined and re-named the ERIS. ERIS was broken into three groups: the first two groups included the existing EEEBR Scheme (now known as the ERIS (SME)) and the CEEBR Scheme (now known as the ERIS (All – Corporations)), while the final group was called the ERIS (Start-Ups).

The ERIS provided generous tax exemption for qualifying gains, subject to meeting certain conditions and exemption limits. Specifically under the ERIS (All Corporations), employers were required to offer equity awards to at least 25% of their population to be eligible for qualified treatment. By abolishing ERIS, new grants made after the expiration of the applicable ERIS scheme will no longer qualify for any exemption. The table below details the timeline for abolishing the various schemes.

ERIS Category	Expiration date (for grants after)
ERIS (Start-Ups)	February 15, 2013
ERIS (SME)	December 31, 2013
ERIS (All Corporations)	December 31, 2013

Qualifying grants made on or before the applicable expiration date will still qualify for the concessionary treatment provided that the gains are realized by December 31, 2023. However, after the expiration of ERIS, the equity gains will become fully taxable at the employee's marginal tax rate, at the time of vest, exercise, or at cessation of employment (unless the tax point is deferred).

Spain

New tax reporting obligations for assets and rights held outside of Spain

Beginning January 1, 2013, a new reporting obligation has been introduced in connection with assets and rights located outside of Spain. This reporting obligation ("Form 720") is effective with regard to the 2012 tax year. Individuals must file Form 720 electronically before April 30, 2013 (March 31st from 2014 onwards). The regulations establish that Spanish tax resident entities and individuals should file an information return to declare the following assets or rights they have outside Spain when the value of those assets/rights exceeds EUR 50,000 at any given time in the year for each asset group below:

- Accounts in which the individual is the titleholder, or in which he or she is a representative, authorized person, or beneficiary, or in which he or she has disposal powers.
- Values, securities, rights, insurance, and life-long or fixed-period/temporary annuities.
- Real estate or rights in real estate.

Individuals who have been granted the special tax regime for inbound expatriates will not be subject to this new reporting requirement as long as the special tax regime is applicable.

Submission of Form 720 in subsequent years will only be mandatory when the value of any of the types of assets increase by more than EUR 20,000 compared to the previous year; or in certain cases in which ownership in those assets or rights is relinquished.

Failure to file the informative return on time or the reporting of incomplete, inaccurate or false information constitutes a serious infringement of the applicable tax legislation. Accordingly, there are significant penalties for incorrect, incomplete, or late reporting. PwC-Spain can assist taxpayers with these new reporting requirements.

Switzerland

Swiss electorate votes for strict compensation regulation

On March 3, 2013, the Swiss public voted in favor of the Minder Initiative ("the Initiative") by a majority vote of 68%. As a result of the Initiative, Switzerland will introduce one of the strictest regulations on executive compensation and corporate governance in the world. The regulations will affect all Swiss companies whose shares are quoted on a Swiss or overseas stock exchange, their governing bodies (Board of Directors, Executive Management and Advisory Board), and their shareholders (including approximately 2,000 pension funds). The Initiative will not go into effect upon finalization of the "transitional ordinance", which the Swiss Federal Council has until March 2014 to finalize.

Major changes arisen from implementation of the Initiative are:

- Shareholders will have a vote in the annual general meeting on the total compensation of the company's governing bodies.
- Members of the governing bodies must not receive any advance ("golden hello"), severance, change in control, or other similar payments.
- Pension funds with direct investments in Swiss companies must vote in their beneficiaries' best interests and disclose their voting behavior.

The sanctions for failure to comply with any of the 24 requirements are harsh: imprisonment (up to three years) and a fine (up to six times the annual compensation).

Many issues regarding the detailed requirements remain unclear at this stage. While the Initiative gives shareholders significant power in executive compensation matters, it does not stipulate any caps on executive compensation, nor does it affect the compensation of middle management. We will provide more information as additional guidance becomes available.

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For more information about any of these developments, please feel free to contact any of our team members listed below.

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