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Global Social Security Newsletter

March 2014

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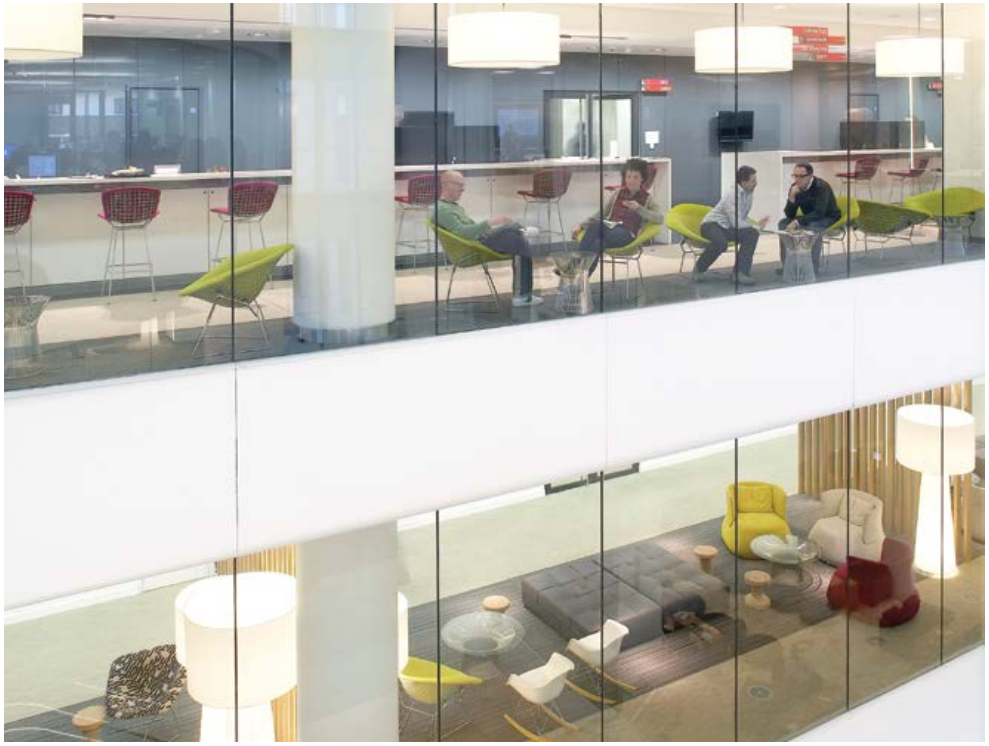
Introduction



Welcome to the March 2014 edition of our global social security newsletter, bringing you updates on changes in the social security regimes of various countries across the PwC network in the period from 1 January 2014 to date.

We hope that you enjoy reading the updates and as always, please feel free to contact us should you have any queries or require further clarification on any of the issues raised in the newsletter.

Regards

The PwC social security network

Bart Elias
Social Security Leader - Europe, Middle East, Africa and India

Please visit our dedicated website for details on the social security regimes in place in over 100 countries in the PwC network: *www.pwc.com/socialsecurity*

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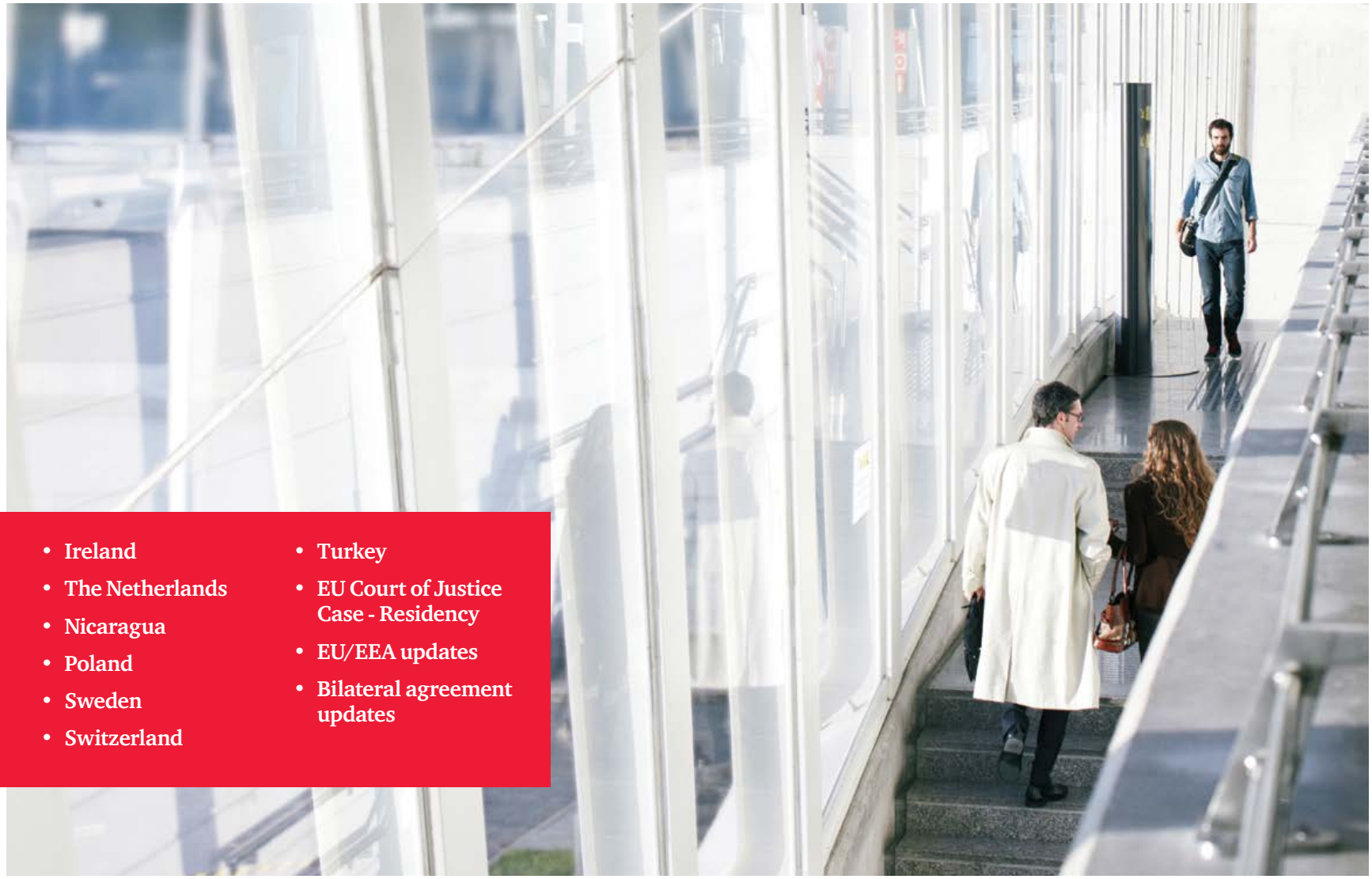
Countries & topics



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Your country information

Albania

Under domestic law, employed persons and self-employed persons are subject to compulsory Social and Health Contributions (SHC). The minimum and maximum monthly salaries for the purposes of calculating social contributions are 19,026 ALL and 95,130 ALL respectively.

Up to 31 December 2013, an additional health contribution was calculated on gross salary with the same minimum and maximum thresholds. From 1 January 2014, these thresholds will not apply when calculating the health contribution.

Also, with effect from 1 January 2014, self-employed persons are liable to mandatory social contributions at a 23% rate and health contributions at a 7% rate on an amount equalling the average of the minimum and maximum thresholds. These amounts were previously calculated on the minimum 19,026 ALL salary threshold.

Belarus

From 1 January 2014, various social insurance payments have been suspended to reduce government expenditure. These include the payment of social pensions to employees who have not reached the retirement age and the payment of maternity and family allowances.

Czech Republic

With effect from 1 January 2014, employers must pay Czech social insurance (employer as well as employee contributions) in respect of certain classes of inbound assignees from the day they begin exercising employment duties in the Czech Republic. Previously, this obligation arose after the expiry of a 270 day period if the assignees were retained in their home country social security system and the Czech authorities were notified as such.

This change applies only to individuals who are assigned to the Czech Republic under an international hire of labour agreement from a non-EU country with which the Czech Republic has not concluded an international agreement on social insurance (currently e.g. Russia, India or China).

Denmark

Please see the following commentary on current and proposed changes to Danish family/child benefit (børne- og ungeydelsen).

From 1 January 2014 the benefit will be means-tested and the amount payable will be reduced progressively in accordance with taxable income. In practice, the reduction of the benefit will be based on the income included in an individual's 2014 Danish preliminary tax return and it will be amended based on the final 2014 tax return and tax assessment. For this reason, it is important that a correct preliminary tax return is filed.

PwC has been in contact with the Danish authorities regarding the administration of the rules. The Danish authorities confirmed that individuals who have been retained on Danish social security but who do not have a Danish tax reporting obligation due to work and residence abroad will be entitled to the full Danish benefit despite the level of actual income earned aboard. The authorities have also confirmed that such individuals will not be required to report any income in Denmark.

Your country information

Germany

The German government has prepared draft legislation to ratify the social security bilateral agreement between Germany and Uruguay. The draft legislation has been submitted to the German Federal Parliament for confirmation. The agreement contains provisions on retirement pensions and health, nursing, accident and unemployment insurance. In addition, the agreement includes a provision for the crediting of social security contributions from one country when it comes to claiming benefits in the other country.

Indonesia

From 1 January 2014, the Government of Indonesia has begun implementing a comprehensive social security system which is designed to cover all Indonesian citizens and not just employees who participate in the existing system. The transition from the current system will be implemented on a phased basis up to 1 January 2019.

The compulsory requirement to join the new social security system (both health and worker's social security) applies to all employees, including inbound assignees who work in Indonesia for more than six months. Previously, inbound assignees were not subject to Indonesia's social security system if they could provide evidence that they remained subject to their home country system.

Ireland

From 1 January 2014, the State Pension (Transition) for workers born after 1947 has been abolished. In summary, the State Pension (transition) was payable to individuals who retired at 65, but did not reach the age required to claim the State Pension (Contributory). This change is part of a number of measures introduced in 2011, including the raising of the qualifying age for a State Pension (Contributory) to 67 by 2012 and to 68 by 2028.

The Netherlands

1. Extension of A1 statement for a period exceeding 5 years

Recently, the Dutch social security authorities announced a more relaxed approach to the extension of a Dutch A1 or Certificate of Coverage beyond a period of 5 years. Until now, the Dutch social security authorities were reluctant to issue A1s or Certificates of Coverage which exceeded a maximum period of 5 years. As a result of the change, employers and employees should now find it possible to extend their A1s or Certificates of Coverage if, due to unforeseen circumstances, their foreign assignment lasts more than 5 years. The extension will, however, only be awarded for a period of one additional year and will only be awarded once. It should be noted that the social security authorities of the country where the assignee is working will also need to grant approval to the extension.

2. Employer's contribution health care no longer taxable

From 1 January 2013, an employer paid contribution to the Dutch health care scheme on behalf of an employee is not considered taxable income for employees. Tax Plan 2014 provides that this change may apply rectroactively in respect of an employer's contribution to a foreign health care scheme, which is similar to a Dutch scheme. Consequently, there is an opportunity to claim refunds of Dutch tax paid in respect of such contributions. For 2013 it is also possible for the employees concerned to make an amendment in their 2013 Dutch income tax return.

3. Increased deductibility of Belgian social security contributions (RSZ)

In relation to the note above regarding the employer's contribution to health care, the Dutch tax authorities published the amended tax treatment of Belgian RSZ-contributions. From 1 January 2013, 73% of the employee's contributions into the Belgian social security scheme (RSZ) are tax deductible in the Netherlands. From 2014, the full deduction should be claimed through payroll.

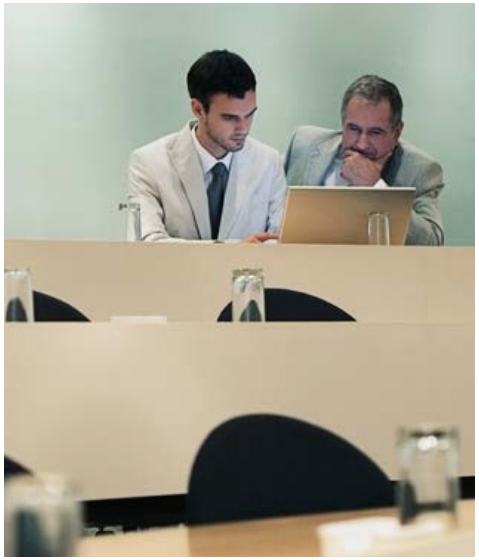
4. Scope of Fitzwilliam decision (Case C -202/97)

A Dutch court has sent preliminary questions to the European Court of Justice to confirm the scope of the "Fitzwilliam" case, which provided that all member states are required to accept a Form E101 from a different member state, even when it is clear that the Form E101 was issued incorrectly. The Dutch court has asked the ECJ to confirm whether member states should also accept the validity of a Form E101 in cases where it is clear that EU Regulation 1408/71 is not even applicable.

Your country information

Nicaragua

From 1 January 2014, new rules have come into place with respect to the public pension system. In summary, contribution rates for employers will increase gradually from 7% in 2013 to 10% in 2017, while by 2015 the ceiling on contributions for both employers and employees will nearly double to 72,410 córdobas a month. From 2016, the ceiling will be adjusted every January to account for changes in average salary among insured workers.



Poland

In February 2014, a bill to reform the private pension fund sector was entered into force. The main consequences are as follows:

- open pension funds (OFEs) were required to transfer 51.5% of their assets to the Poland's Social Security Institution (ZUS);
- gradual transfer of each person's retirement funds managed by OFE to ZUS, which will start ten years before reaching retirement age;
- automatic transfer of retirement contributions to ZUS, instead of OFE, unless an individual OFE member files a declaration (the first transfer will occur between 1 April and 31 July 2014) requesting his/her contributions be transferred to OFE.

In addition to the above in March 2014, the Polish government proposed changes to the social security law which, if implemented, will result in Polish social security contributions becoming due on remuneration of supervisory board members, among others. Such social security contributions will be applicable in addition to the current health insurance coverage which is and will continue to be due if the supervisory board member resides in Poland.

Sweden

Changes to parental leave for children born on or after 1 January 2014

In Sweden, parents currently receive 480 days of parental leave. For children born before 1 January 2014, parents can take parental leave up to the date the child turns eight or until the child has finished first grade under nine-year compulsory schooling. Under new rules, parents can take parental leave up to the date a child turns twelve or until the child has finished fifth grade under nine-year compulsory schooling. However, between the ages of four and twelve, the parents can only take a total of 96 days parental leave.

Switzerland

On 9 February 2014 the Swiss electorate voted in favour of a popular initiative aiming to limit mass immigration into the country. A new constitutional provision which requires that immigration be restricted by means of quantitative limits and quotas was approved by a majority of 50.34% of the Swiss electorate.

Currently Annex II to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons is still in force, meaning that EU social security regulations (e.g. Regulations no 883/2004 and no 987/2009) are still applicable in relation to Switzerland.

Turkey

In accordance with legislation which came into force on 21 August 2013, employees who are assigned to Turkey by an organization which is located in a country with which Turkey does not have a bilateral social security agreement will be exempt from Turkish social security coverage if they can prove that they are subject to their home country social security system.

A new regulation which came into force on 7 March 2014 states that the documents obtained from the home country social security institution confirming retention in that system should be certified in a representative office of the home country (e.g embassy, consulate, attaché's office etc.) in Turkey.

Your country information

EU Court of Justice Case - Residency

An Irish tax case is currently awaiting an EU Court of Justice ruling on how to distinguish between a person's "residence" or "stay" in a Member State. The Advocate General gave his opinion on the case on 20 March 2014.

The case is in respect of an Irish national who spent his summer holiday in Germany in 2002 with his spouse. During the holiday be became critically ill and was unable to return to Ireland. Over the following years his conditions worsened and the Irish authority confirmed that they would continue to cover German medical expenses as he was still an Irish resident and thus covered by Irish social security. Under the EU coordination rules on social security a person is entitled to necessary care while staying outside his home country.

In November 2011 the Irish authority changed their position and refused to cover further expenses. The Irish authority regarded the individual to be German resident and therefore no longer covered by Irish social security. The decision was appealed and referred to the EU Court of Justice.

The Attorney General issued his opinion and concluded that he regards the individual to have maintained residence in Ireland. The Attorney General made the following remarks:

- That the concept of "residence" and "stay" are interlinked;
- The concept of residence is defined as the member state where the person has "habitual residence", taking into account all relevant facts available;
- The concept of stay is defined as temporary residence in a Member State;
- When establishing in which Member State a person has residence, such criteria as his family situation, stable employment, duration and the individual's intention may be taken into account with no one criteria taking priority;
- There is no golden rule as to how much time is needed for a stay in a Member State to become habitually resident.
- As residence is defined by a broad number of criteria, the concept of "stay" must also be defined by more than just the duration of the temporary stay as the two concepts are interlinked;
- When determining residence the Member States have an obligation to cooperate in order to ensure that the person is treated correctly and is not deprived of his social security rights;

The opinion of the General Advocate is not binding to the Court when it gives its final judgment. The final judgment is usually given within approx. 6 months from the date of the opinion of the General Attorney.

EU/EEA updates

1. New EC Commission Practical Guide on Social Security

The European Commission has issued a revised practical guide on the applicable legislation on social security within the EU/EEA and Switzerland. The Guide was revised in December 2013 and was updated in January 2014. The revised guide introduces a new chapter on residence, which provides guidance on the assessment of an individual's habitual residence for social security purposes. Under EU rules, the residence of an employee is a key factor in determining the country in which he/she is required to pay social security contributions.

In brief, the practical guide provides the following guidance in relation to the concept of "residence" for EU social security purposes:

- "Residence" is a term defined by EU-law and as such EU member states cannot introduce their own concepts of residence.
- EU rules make a distinction between "residence" and "stay". "Residence" is defined as the place where a person habitually resides, whereas "stay" means temporary residence.
- A person's "residence" is determined on the basis of the facts having regard to all circumstances which point to a person's real choice of a country as his or her member state of residence. This is to be done on a case-by-case basis.
- Registration in a national register does not in itself establish "residence" in that country.
- The fact that a person acquires an accommodation in a Member State does not necessarily establish "residence".
- A person can only have one place of "residence".
- A person must have a place of "residence". However, this place of residence may be situated outside the territories of the Member States.

The practical guide may be found here: ***http://ec.europa.eu/social/BlobServlet?docId=11366&langId=en***

Your country information

Bilateral agreement updates

Signed:

Korea - Switzerland	20 January 2014
Belgium – Morocco (revised version)	18 February 2014

Entered into force:

Hungary – Japan	1 January 2014
Norway – Canada (revised version)	1 January 2014
Poland - Ukraine	1 January 2014
Bulgaria - Canada	1 March 2014

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