

# *International Assignments: Regional Tax Round-Up*

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The Regional Tax Round-up is a quarterly series which highlights any recent changes or current hot topics affecting the personal income taxation of your internationally mobile employees across the region.

## **HONG KONG**

### **Recent Board of Review Decisions**

**The Hong Kong Board of Review has issued a verdict for case D39/10 - which may hold relevance for senior executives:**

#### **D 39/10**

This case concerned the taxability of income relating to workdays in Hong Kong during an individual's secondment to PRC. The taxpayer claimed his employment income relating to the period of his formal secondment to PRC (including income relating to his workdays back in Hong Kong) should not be reportable or taxable in Hong Kong on the basis he had been effectively employed by a PRC company and worked primarily in PRC during the period of his assignment.

The Board dismissed the taxpayer's claim and subsequent appeal, and upheld that the taxpayer actually held a Hong Kong employment with a Hong Kong company throughout the period of his secondment. Hence, the income relating to the period of the individual's secondment, whether paid by the Hong Kong employer or the PRC company, should be reported and taxed in Hong Kong.

As the taxpayer had paid individual income tax in the PRC in respect of his income for services rendered in PRC, the Board ruled that he could either exempt from Hong Kong tax the income relating to days in PRC under Section 8(1A)(c) of the Inland Revenue Ordinance, or he could claim a credit for PRC tax paid under the HK-PRC Double Tax Agreement. The exemption of salaries tax in respect of the taxpayer's income from services rendered in PRC was found to be more advantageous than a credit, so the individual was considered to be no worse off as a result of this ruling in respect of income relating to his days in PRC.

The Board found that, as the individual continued to be employed by a Hong Kong company, Hong Kong should retain the primary taxing right over income relating to business trips back to Hong Kong during the period of his secondment. Neither an exemption nor a credit would be available in Hong Kong respect of the income relating to these days. As this income had already been subject to tax in PRC, the Board found the individual would need to seek any relief in PRC.

An important message from this case is that, even if an individual is formally seconded to work for and on behalf of an overseas entity, there may be situations where the individual is still considered to be employed by the Hong Kong entity, and as such, the assignment-related income would need to be reported and taxed in Hong Kong. The Hong Kong authorities may not allow any relief in respect of income relating to days back in Hong Kong during an assignment, so care should be taken to manage assignees' travel patterns to avoid potential double taxation.

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## **MALAYSIA**

### **Highlights from the recent 2012 Malaysian Budget**

The Malaysian Prime Minister announced the 2012 Budget on 7 October 2011. The focus of the 2012 Malaysian Budget was on measures to place the nation's well-being at the forefront and develop human capital. The key changes affecting individuals and employers are:

#### **(1) Employees Provident Fund ("EPF") Contributions**

- Employers' contributions on EPF is to be increased from 12% to 13% for contributors who earn RM5,000 and below.
- Expatriates who have elected to participate in the EPF will be allowed to withdraw for the purchase of a house, similar to the facility currently available to Malaysians.

The effective date of the above changes has yet to be announced.

#### **(2) 15% Tax on employment income of individuals under the Returning Expert Programme**

An individual, approved by the Minister under the Returning Expert Programme ("REP"), has the option for employment income to be taxed at the flat rate of 15%.

#### **(3) Private Retirement Scheme Relief**

The Government had previously introduced changes to enable the creation of Private Retirement Schemes. An additional relief for the individual taxpayer of RM3,000 for contributions to such Private Retirement Schemes was announced during the Budget in addition to the existing RM6,000 relief for life insurance premiums and EPF contributions. There is no limit to the amount of contributions the individual may make.

#### **(4) Duty to furnish particulars of payments made to an agent, dealer or distributor**

A new reporting requirement is placed upon companies to disclose to the tax authorities details of payments made to its agents, dealers and distributors. This report must be filed in a prescribed format no later than 31 March following the relevant year of assessment.

#### **(5) Tax Administration**

- Provided the taxpayers have filed the income tax returns before the stipulated filing deadlines, compensation of 2% on the amount of tax refunded late by the Director General would be given to tax payers with effect from 2013.
- The time bar for the tax authority to launch audits will be shortened from 6 years to 5 years effective from 2013.

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## **SINGAPORE**

### **Additional document to be submitted to the Singapore tax authorities to claim treaty exemptions**

The Inland Revenue Authority of Singapore ("IRAS") has issued a statement recently to advise of a change in procedures when claiming exemption from Singapore income tax under a Double Tax Agreement ("DTA").

Previously, it had been necessary to submit a Certificate of Residence (COR) duly attested by the tax authority of the individual's country of residence together with an employer tax clearance Form IR21, in order to exempt employment income from Singapore taxation. With immediate effect, the IRAS now requires a letter from the employer to be submitted to the IRAS as well.

This letter should reflect the confirmation of the period of the individual's employment in Singapore, as well as confirmation that none of the individual's remuneration costs are borne by any permanent establishment or a fixed base in Singapore.

#### **Singapore currently has 68 comprehensive tax treaties:**

Albania, Australia, Austria, Bahrain, Bangladesh, Belgium, Brunei, Bulgaria, Canada, China, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Fiji, Finland, France, Georgia, Germany, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Kazakhstan, South Korea, Kuwait, Latvia, Libya, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Mongolia, Myanmar, Netherlands, New Zealand, Norway, Oman, Pakistan, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, Vietnam and now Uzbekistan.

As the stipulated conditions for tax exemption in each DTA differ, clients are well advised to refer to the relevant tax treaty for the specific provisions applicable to your employees' case.

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## VIETNAM

### Supporting documents proving tax residency status

Where an individual stays in Vietnam for at least 90 days but less than 183 days in a calendar year and can prove tax residency in another country, he/she will be treated as a Vietnam tax non-resident. Evidence of tax residence by way of a tax residency certificate issued by the tax authority of the country where the individual resides may need to be provided to the Vietnam tax authority in order to substantiate this.

Alternative documents may be provided to demonstrate tax residence in countries where tax authorities do not issue tax residency certificates. The alternative documents would include a copy of an individual's birth certificate/passport and home country tax return/income report form (i.e. Form W-2) can be used. These documents must be translated into Vietnamese and signed by the taxpayer. Notarisation/legalisation of these documents would not be required.

Although this is specific to taxpayers who are tax residents of the US, the principle of being able to use alternative documents when a tax residency certificate is unattainable may also apply more generally to other nationalities.

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## TAIWAN

### Update of tax treatment for income received by individual for military services or from educational organisations with effect from 1 January 2012

Under Paragraph 4 of Income Tax Act ("ITA"), salary income received by individuals for military services or from educational organisations (i.e. nursery, kindergarten, public/private primary and junior high schools) had previously been exempted from Taiwan individual income tax. However, with effect from 1 January 2012, such salary income will no longer be exempted from Taiwan individual income tax.

The Department of Military or the relevant educational organisations shall withhold income tax at the time of making the payment to the individual and report the income to the Taiwan tax authority accordingly. The individual shall be required to report the income received in his/her 2012 Taiwan individual income tax return.

Expatriates whose spouses may be employees of foreign schools in Taiwan may be affected by this change. Their spouses' incomes have been exempted from Taiwan individual income tax in prior years but shall become fully taxable starting from 1 January 2012. This shall be brought to the expatriates' attention that they shall report the income received from the schools in their 2012 Taiwan individual income tax return if filing jointly with their spouse.

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### **How PwC International Assignment Services can help you**

The relentless pace of globalisation is increasing the role international mobility plays in achieving business goals. HR professionals face major challenges dealing with new mobility patterns, working methods, and an increased demand from management to demonstrate the value obtained from expensive internationally mobile staff. In Asia-Pacific, this is even more prevalent as businesses expand into new markets and require experienced management on the ground quickly.

The PwC International Assignment Services practice provides a complete range of services for organisations deploying staff across international boundaries. This includes strategic consulting advice, planning and compliance services, as well as programme administration.

Please visit our website at [www.pwcias.com](http://www.pwcias.com) for more information on how we can assist you, as well as the latest thought leadership in a broad spectrum of mobility issues.

This guide is intended as a brief overview only – please contact us for further information and advice.

