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WTS Global Mobility Newsletter

Editorial

Dear Reader,

We are pleased to present the **WTS Global Mobility Newsletter for Q1 2020.** The Global Mobility environment is changing in a dynamic way. Therefore in order to keep you up to date, our WTS Global Mobility Newsletter provides you with an **overview of recent developments in 11 selected EU and third countries.**

Austria saw the introduction of a new wage tax withholding obligation for foreign companies effective 1 January 2020 – similar to the French system which came into force last year.

In this issue we report on significant changes for non-resident employees in **Germany** also applicable from 2020 onwards.

We provide information about the new tax exemption for young professionals in **Poland**, as well as a social contributions relief for young people of excellence in **Italy**.

This newsletter reports on recent developments regarding **Belgians** working in Luxembourg, as well as new tax residency criterion for major companies' corporate executives in **France**.

Furthermore, the consequences of the EU Posting of Workers Directive are shown from a Dutch perspective, since new rules came into effect 1 March 2020 in **The Netherlands**.

In **China** several announcements concerning 2019 individual income tax (IIT) annual filing were published by the authorities, including some beneficial tax policies to support the prevention and control of the coronavirus pneumonia (COVID-19) epidemic.

Finally, this newsletter includes an update about new tax brackets and rates in **Turkey** (including an obligatory income tax return filing for specific employees) and **Costa Rica** (including increased Social Security Charges) – as well as major amendments affecting individuals' taxation in the **Ukraine**.

We hope you find our newsletter useful, and we welcome your feedback and suggestions. Our experts at the WTS Global Mobility team will be happy to answer any questions you may have regarding any aspect of this newsletter.

Yours sincerely,

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WTS Global Mobility Team

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Please find the complete list of all contacts at the end of the newsletter.

Austria

New wage withholding tax obligation in Austria as per 01/01/2020

Up until now, foreign companies which employed employees in Austria or seconded employees to Austria were only obliged to monthly withhold Austrian wage tax if their business activities in Austria constituted a so-called "wage tax permanent establishment" (i.e. if a business is wholly or partly conducted in Austria from an office, factory or other physical presence, or construction activities lasting longer than 6 months are carried out in Austria). As per 01/01/2020, the monthly wage withholding tax obligation is extended. Even if the foreign company is **not** constituting a wage permanent establishment in Austria it is still obliged to monthly withholding wage tax if

- the employee is or becomes an Austrian tax resident (especially if he/she has a regular residence there) AND
- works in Austria AND
- the Austrian taxation right is not restricted according to the double tax treaty between Austria and the foreign country.

The new regulation is therefore applicable, for example, in the following cases:

- Employees of foreign companies resident in Austria and performing a part of their work from a home office in Austria;
- Sales representatives of foreign companies who are performing their work at least partly in Austria and have tax residency in Austria;
- Personal leasing if the employee is or becomes an Austrian tax resident.

Five-step guide to avoiding fines for non-compliance in Austria

1. **Identify employees** affected by the changes:
   - Employees with a **regular residence** or habitual abode in Austria
   - Employees working in Austria (i.e. in an Austrian home office)

2. **Register the company** at the competent tax office in Graz:
   - For the application, please send the form **Verf19E** (available also in English) to the tax office (see: https://bit.ly/2ZYhOA9)
   - Required enclosures: Copy of the Company Register excerpt, Copy of the CEO's ID card
   - Please add on the form: "only an employee is located in Austria, no revenue and company activity are made in the country"
   - You can either send the registration form by fax or by post to the Graz tax office.

3. **Implement a monthly Austrian "shadow payroll"** for the employees affected:
   - The "shadow payroll" must be carried out according to Austrian tax regulations. Therefore, in practice you will need to assign an Austrian tax advisor/payroll provider/ group company with that task and submit to them the monthly payroll data.

4. **Carry out a monthly deduction of wage tax from salary and pay wage tax** to the tax office in Graz:
   - Wage tax must be paid by 15th of the following month.

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5. **File an annual wage statement** at the tax office:
   - For each employee, a so-called annual wage statement (detailing wage components and tax withheld) must be filed by the end of February of the following year. This is carried out electronically and is usually triggered by the Austrian payroll provider.

Belgium

Belgians working in Luxembourg – 24-days' tolerance may increase to 48 days

If a Belgian is working in Luxembourg, then the issue arises about which of the two countries may tax that person's Luxembourgish wages. It can be a significant issue given the substantially lower tax burden in Luxembourg.

The Belgium-Luxembourg double tax treaty's main rule is that if the employment is carried out in Luxembourg, then the salary relating to the days performed in Luxembourg is taxable in Luxembourg and exempted from tax in Belgium.

However, obtaining the exemption for this income in Belgium is not always straightforward.

Burden of proof

Belgian residents who claim such an exemption in Belgium must prove that their activities were physically carried out in Luxembourg.

Proof can be provided by various documents such as bank statements, time logging overviews, personal train tickets, toll tickets, fines for traffic offences, fuel bills, hotel bills, meeting attendance lists (such as meeting minutes), receipts, mobile phone bills showing roaming charges and so on.

In practice, many taxpayers are confronted with investigations, and the Belgian tax authorities may go very far in demanding proof of physical presence in Luxembourg. Unsurprisingly, there are a considerable number of disputes about these issues.

24-days' tolerance increases to 48 days

Another issue concerns the definition of 'presence', as Belgian employees working for a Luxembourg employer do not always carry out their work in Luxembourg; in particular, given that more and more people work from home to avoid long commutes, and employees may have to work in a third state because of conferences, business trips, training and professional development, or social events.

This issue may have a significant effect on such a person's tax liability in Belgium.

According to the applicable double tax treaties, in principle, any working day performed outside Luxembourg is subject to tax in Belgium (except in the specific case of France).

Not only does this lead (in most cases) to a higher total tax burden, it also results in an increased administrative burden, on the one hand for the employer who has to be careful when determining the Luxembourg tax levied on the salary of its Belgian employee and, on

the other hand, for such an employee. However, double taxation should in any case be avoided by applying for a tax refund in Luxembourg.

In 2015, the Belgian and Luxembourg governments introduced a tolerance, the so-called "24 days rule". Thanks to this rule, Belgian employees working in Luxembourg may work outside Luxembourg for 24 days per year and still benefit from an exemption in Belgium and taxation in Luxembourg.

However, as soon as the limit of 24 days is exceeded, the tolerance no longer applies for the first 24 days either.

Practice shows that many employees easily spend more than 24 days per year outside Luxembourg for their job, resulting in Belgian taxation on this part of their income.

This issue may end for many cross-border workers, as in 2019 the finance ministers of Belgium and Luxembourg concluded an agreement to start new negotiations to increase the limit from 24 to 48 days.

If this agreement is formalised, this would facilitate tax compliance, increase legal certainty and reduce the tax burden for many cross-border workers.

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It will take some time before this adjustment comes into effect. We will keep you updated.

Please do not hesitate to contact our team if you would like further information.

China

Announcements concerning the 2019 annual filing of individual income tax (IIT) and the coronavirus pneumonia (COVID-19) epidemic

Announcements concerning 2019 annual IIT filing

The first annual filing season (1 March 2020 to 30 June 2020) is fast approaching. Announcement [2019] No. 44 and Announcement [2020] No. 3 were issued in order to stipulate more detailed rules.

It is still worth noting that annual IIT filing is only applicable for tax residents who receive consolidated income (wages and salaries, service remunerations, authorship remuneration and royalties). For non-tax residents, the IIT should be filed on a monthly basis. If their IIT is not properly filed during the monthly filing, backlog filing on a monthly basis will be required, which may involve necessary late payment interest and/or penalties.

The detailed provisions introduced in the aforementioned two rules are as follows:

1) Taxpayers who are Chinese tax residents, receive consolidated income, and have prepaid tax, are not required to perform the annual settlement if one of the following circumstances is met:

a. Supplementary filing is required after the annual reconciliation but the total annual consolidated income does not exceed RMB 120,000;
b. Supplementary filing is required after the annual reconciliation but the figure due does not exceed RMB 400;
c. The prepaid tax amount matches the annual tax payable or the taxpayer does not apply for the tax refund.

2) Allowable deductive items that can be claimed during the annual settlement:
   a. Major illness medical expenses;
   b. Qualified charity donation;
   c. Other allowable deductive items that are not fully claimed during the prepayment.

3) Tax residents' foreign sourced income may be subject to China tax. If this is the case, such income should be claimed during the annual filing. The IIT paid in the country (region) where the income is sourced may be claimed as a foreign tax credit to offset the tax payable within the tax credit limit if such foreign IIT paid qualifies for the credit.

4) Filing period: 1 March 2020 to 30 June 2020 (non-domicile taxpayers can apply for the annual settlement before leaving China if departure is before 1 March 2020).

5) Filing methods: a) By self; b) By the withholding agent; c) By entrusting a professional agent or others.

6) Filing channels: a) Online (including APP); b) Post; c) On-site.

Announcements concerning the **COVID-19** epidemic

In order to support the prevention and control of the **COVID-19** epidemic, the Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly issued Announcement [2020] No. 9 and 10 on 6 February 2020. The announcements provide the following beneficial tax policies, effective from 1 January 2020:

1) Individuals' following donations to cope with the **COVID-19** epidemic are fully pre-tax deductible, when required conditions are met:
   a. Cash or articles donated through non-profit social organisations, governments at or above the county level and their departments, or other state organisations;
   b. Articles donated directly to the hospitals undertaking the epidemic prevention tasks.

2) The following remunerations are tax exempted:
   a. The temporary subsidies and bonuses obtained by medical staff and epidemic prevention workers joining in the prevention according to the government specified standards;
   b. Drugs, medical supplies, protective equipment, etc. (excluding cash) distributed by entities to individuals for the prevention.

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Costa Rica

Salary Income Tax (SIT) and Social Security Charges (SSC)

1. SIT

Costa Rica had important tax amendments relating to different taxes as of 1 July 2019, such as the withholding of the salary income tax (SIT). In relation to SIT, it is important to note that the requirements of taxation have not changed, they are dependent on relationship and territory.

The brackets and rates (monthly) were set as follows (USD – may have variations based on the exchange rate differences):

Bracket		Rate
Up to	1.474	exempt
From 1.474 up to	2.159	10%
From 2.159 up to	3.795	15%
From 3.795 up to	7.574	20%
From 7.574 up to	No limit	25%

The employee can deduct from the tax due $2.75 for each child and $4.13 for their spouse.

The calculation, filing of the tax return and payment (previous withholding to the employee) of the SIT must be carried out by the employer.

Likewise, if the employee is under a dependent relationship of the foreign parent company or subsidiary in CR, from the first day of rendering services for the CR entity the Tax Administration will consider the employee to be a tax resident and therefore subject to SIT and SSC.

2. SSC

As of January 2020, the employee must pay from its gross income an amount of 10.50% (the % was increased by 0.16%). The employer should withhold the amount and pay it to the Social Security Institute. The employer must pay the amount of 26.5% (employer contribution) calculated over the total of the payroll.

The social charges paid by the employer are deemed to be deductible expenses in order to calculate the corporate income tax.

Some benefits as salary in kind (car or house lease, and per diem) should be assessed on a case by case basis so as to identify whether or not they are considered to be part of the salary in order to pay SSC.

According to the recent case law, some benefits in kind such as car lease housing, are not deemed to be salary as the benefits are given as an obligation in accordance with the labour code. It is strongly advisable to justify granting those benefits as a direct cost of the mobility.

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Also, according to the labour code for the payments deemed to be salaries, the employer must pay Christmas bonus, severance, vacations and labour risks.

France

Tax domicile in France of the corporate executives of French major companies

Under Article 4B of the French tax code, persons (French or foreign nationality) are deemed to be domiciled in France for tax purposes if:

- Their home is in France;
- Their main place of abode is in France;
- They conduct a professional activity in France, salaried or not, unless they can prove that it is a secondary activity;
- They have the centre of their economic interests in France.

Unless the provisions of applicable international tax treaties state otherwise, French tax law provides that any individual having their tax domiciliation in France (i.e. if one of the criteria above is fulfilled) is subject to French income tax on their worldwide income.

However, Article 13 of the French finance bill for 2020 introduced a new tax domiciliation criterion for executives of large French companies. Under certain circumstances, these executives are considered to be exercising their professional activity mainly in France.

Executives as defined by the new criterion of French tax residency

Executives affected are:

- The chairman of the board of directors when assuming the position of managing director of the company;
- The managing director;
- The deputy managing directors;
- The president and members of the executive board;
- Managing directors and other managing executives exercising similar functions.

Companies as defined by the new criterion of French tax residency

These new provisions apply to companies having their registered offices in France and whose turnover exceeds 250 million euros. This threshold is the sum of the turnover generated in France by the French company plus the turnover of the companies it controls.

The safeguard clause

Article 13 of the French finance bill for 2020 provides that the executives may avoid the application of this new criterion by proving that their professional activity in France is not their main professional activity.

Impact of tax treaties

One of the aims of international tax treaties is to resolve conflicts of domiciliation of individuals, therefore, they may contravene the criteria of Article 4B of the French tax code. Thus, the principle of taxation for the worldwide income of French tax residents will not be applicable.

For income tax purposes, and in practice, the new criterion of tax domiciliation for executives may not be applied frequently. Indeed, the provisions of international tax treaties take precedence over French domestic law. For instance, for an executive who fulfils the new

criterion of Article 4B of the French tax code while having his/her permanent home in a state that has concluded an international tax treaty with France that incorporates the provisions of Article 4 of the OECD Model Convention. This executive would then be considered as a non-resident of France.

With regard to the impact on wealth tax on real estate ("IFI") and inheritance or gift taxes, it will be necessary to assess if the international tax treaties' scope includes these taxes. If not, the new tax domiciliation criterion applicable to executives will apply, but the safeguard clause may be invoked if needed.

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Effective date of the new provisions

Article 13 of the French finance bill for 2020 applies as from the taxation of 2019 income with regard to income tax, and as from 1 January 2020 for IFI and gift and inheritance taxes.

Germany

New flat-rate tax for Branch Travellers

In Germany, employees of a foreign permanent establishment (PE) of a Germany-based company are taxable in Germany from day 1 on their remuneration proportional to their actual working days in Germany – this was clarified by the Federal Ministry of Finance already back in 2015.

The reason is quite simple – in Germany, a PE is not recognised as a legal employer (but only the Germany-based company which has established the PE abroad). Consequently, this Germany-based company is obliged to withhold wage tax for each working day in Germany – even if there is a double tax treaty applicable.

To reduce the high administrative burden, German legislature introduced a flat-rate-tax of 30% of the proportional remuneration as of 1 January 2020. However, the flat-rate tax is only possible if the German working days do not exceed a continuous period of 18 working days.

A big disadvantage is that the flat-rate tax of 30% will be higher than the individual tax rate of the employee in many cases. Therefore, the new flat-rate tax is costly for the employer.

Furthermore, the minimisation of administrative burden will not be achieved, as the collection/monitoring of foreign remuneration and German working days is still required under the new law.

ELStAM system for non-resident employees

The ELStAM system has replaced the old paper-based wages tax card as from 1 January 2013 for resident employees. The ELStAM system uses electronic criteria for wage tax deduction and significantly facilitates communication between employers, employees and tax offices.

As of 1 January 2020, also non-resident employees are integrated into the ELStAM system. Therefore, the employer must retrieve the electronic criteria for wage tax deduction via their payroll system. The prerequisite is a tax ID number for the employee. This must be applied for by the employee or employer.

New 2020 filing obligations for non-resident employees

So far, the German income tax liability for a full-year non-resident employee has generally been settled by the wage tax withholdings and no income tax return had to be filed. As of 2020, a new mandatory filing requirement was introduced for non-resident employees.

It needs to be considered if the employer applied the so-called "One-Fifth Rule" within the wage tax withholding procedure. The "One-Fifth Rule" is a beneficial tax calculation that applies to income for multiple years (e.g. income from long-term incentive plans or severance payments).

Besides the increased administrative effort of filing a tax return, the new law will lead to a significantly higher tax burden for non-resident employees in many cases, as foreign income received during the year will be included for progression purposes when calculating the employee's personal tax rate.

Extended wage tax withholding obligation for German employers

Each Germany-based employer is obliged to withhold wage tax for its employees. This obligation applies also for employees from abroad who are working for a German employer (inbounds). In the past, this obligation was controversial for inbounds for which the German employer did not bear the remuneration costs – rightly or wrongly.

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Since 1 January 2020, the German legislature clarified: if a German employer engages an employee from abroad for his Germany-based company, and they do not bear the costs, they still have the obligation to withhold, **if they should have borne these costs after taking into account international transfer pricing rules** ("arm's length principle").

Italy

Italy's measures towards future: young people of excellence, sharing of parenthood, rise of smart working

1. Bonus for young people of excellence: Social Contributions Relief

Since 1 January 2020, a social contributions relief (i.e. a reduction on the social contributions due) has been dictated for the following categories:

- Citizens who obtained master's degrees with scoring 110 cum laude and with a pondered average of at least 108/110, within the legal duration of their studies and before reaching the age of 30, in an Italian state university or non-state university, or in a foreign university recognised as equivalent.
- Citizens who obtained a PhD before reaching the age of 34, in an Italian state university or non-state university, or in a foreign university recognised as equivalent.

The relief is applicable to all private employers who intend to employ people belonging to the categories above. It is applicable also in the case of transformation of an employment contract from fixed term to permanent, if the requirements mentioned above apply at the date of the transformation. The relief is also applicable for part-time employments, provided they are on a permanent basis. In such a case, the upper limit of the incentive shall be reduced proportionately.

2. Paternity leave for employees

For calendar year 2020, Article 1 of Law 160/2019 (among the actions of the so-called "2020 family package") has increased up to seven the number of days which may be used by male private employees as parental leave. On an experimental basis, the number of leave days has progressively increased, especially since 2016, within the scope of a better sharing of parenthood. Said leave can be used for births, adoptions and foster care, whether national or international. The period to consider refers to the events occurring between 1 January 2020 and 31 December 2020. Leave days must be used within five months from when the child is born or from when the adopted child is welcomed by the family, in case of adoptions or foster care, and therefore during the mother's maternity leave or even afterwards, but within the said limit. The stipulated days may be taken consecutively or non-consecutively.

3. The constant rise of "smart working"

A study conducted by the smart working observatory of the School of Management of the Politecnico of Milan reports that in Italy there are approximately 570,000 smart workers, 20% more compared to 2018. This increase has doubled in comparison to the previous years, and shows that there is an increasing interest in such modality. A directive of 2017 by the President of the Council of Ministers shows the willingness to extend smart working also to at least 10% of the applying public employees.

Working time is managed by the employee, provided the working hours stipulated in the contract are met. According to a survey carried out by Bocconi University, the advantages of this are the employee's satisfaction and the improved work performance. In addition, the company benefits from reduced costs for rent, electricity, heating, meal vouchers and the company canteen.

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The Netherlands

Workers posted to the Netherlands reporting obligation implemented

This article is relevant for all non-Netherlands-based service providers that have employees working in the Netherlands, and for all Netherlands-based companies that hire the services of foreign companies.

As per 1 March 2020, service providers from the European Economic Area and Switzerland need to register new temporary assignments in the Netherlands ultimately 5 days before the start of employment. To register, an online database went live on 10 February 2020 (on the website meldloket.postedworkers.nl).

Service providers are foreign employers who temporarily:

- come to the Netherlands with their own staff to perform work for a client;
- second employees to their own branch or affiliated group company in the Netherlands; or
- provide temporary workers in the Netherlands, as a temporary employment agency.

Also, in some cases, self-employed persons who come to perform a temporary assignment in the Netherlands must report.

If a foreign employer or self-employed person makes use of a sub-contractor, that sub-contractor must report its own staff. The foreign employer or self-employed person must check such a report.

When reporting, foreign employers must at least state:

- the identity of the reporter;
- the company details;
- a contact person who is available in the Netherlands;
- the identity of the customer/client;
- the sector in which the activities are carried out in the Netherlands;
- the address of the workplace;
- the expected duration of the work;
- the identity of the person responsible for paying the wage;
- the identity of employees who come to work in the Netherlands;
- the presence of an A1 statement or other proof that demonstrates where the social premiums are paid for the employee(s).

The report made by the foreign employer or self-employed person must also be sent to the Dutch customer/client for review. Inaccuracies must be reported by the customer/client to the authorities before the start of the assignment.

During the assignment, certain minimum documentation must be available at the workplace (on paper or electronically), such as a copy of the employment contract, monthly pay slips, proof of payment, certificate of coverage and time sheets.

Non-compliance of the reporting obligations is an offence that can be penalised with a penalty of EUR 12,000 per offence. The foreign employer, the self-employed person and their customer/client can be penalised.

In some cases of incidental work, the notification obligation does not exist. The construction industry is excluded from this exception. Examples of when notification is not required for qualifying employees are:

- initial assembly or the first installation of goods of which the duration is not more than 8 days;
- urgent maintenance and repair of less than 12 consecutive weeks within a 36week time period;
- attending academic conferences of not more than 5 days, and;
- conducting business discussions or concluding agreements with companies or institutions, provided that the stay does not exceed 13 consecutive weeks within a 52-week time period.

WTS NL facilitates all compliance and advice regarding posted workers.

Newly announced legislation

Another Dutch development is the new pending legislation on the basis of which Dutch labour law would become (partially) applicable when an assignment in the Netherlands lasts longer than 12 to 18 months. We will inform you in more detail on this when the law is enacted, ultimately on 30 July 2020.

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Poland

New tax exemption and new rules, if tax still has to be paid

Tax exemption for young professionals...

As of 1 August 2019, a new law came into force which implemented an exemption from personal income tax (PIT) for taxpayers who are 26 years of age or younger, in relation to income which:

- is derived by the taxpayer until he/she turns 26 years of age, and
- is derived from a public service relationship, an employment relationship, an outwork relationship, a co-operative employment relationship, or from a contract for services (note: this means that the relief does not apply to business income or to income from a contract for specific work); and
- does not exceed PLN 85,528 in a tax year (for 2019 this cap was defined pro rata at PLN 35,636.67).

To use the exemption in 2019, the relevant worker would submit a written representation to his/her withholding agent that he/she wants the exemption to apply to all of his/her income earned between 1 August and 31 December 2019. The representation was used by the agent to cease withholding PIT for the worker.

If the worker failed to submit such written representation before 31 December 2019, he/she will still be entitled to apply the tax exemption in his/her annual tax return for 2019 (to be filed by 30 April 2020) and therefore obtain a refund of the advance tax payments made during the year.

In 2020, such a worker is no longer required to submit any written representation, and the withholding agents are already obliged by law to apply the exemption to taxpayers who are 26 years of age or younger in relation to respective income.

Importantly, the exemption applies solely to personal income tax and does not affect social security and health insurance contributions.

...and new rules, if tax still has to be paid

Different tax rates and thresholds

As of 1 October 2019, the bottom bracket on the progressive tax scale (applicable if the tax base is PLN 85,528 or less) has been lowered from 18% to 17%. For any income above PLN 85,528, tax continues to be charged at 32%. Furthermore, the monthly lump-sum deduction (so-called lump-sum tax-deductible costs) for relevant sources of income has been increased as well.

Since the change was implemented during the tax year, taxpayers must be particularly careful when filing their tax returns for 2019. The old rates and thresholds apply for the period January – September 2019, but the new ones for the period October – December 2019.

Different payment method

As of 1 January 2020, taxable persons in Poland are obliged to pay PIT (also CIT and VAT) to the so-called micro-account assigned separately to each taxpayer. In practice, it means that each employee now has an individual bank account with the tax office. The change is important in particular for expatriates in Poland who in many cases pay their taxes on their own.

The bank accounts to which taxes were paid before 1 January 2020 are no longer valid. If a taxpayer mistakenly makes a payment to a previous bank account, the amount will be reimbursed and the tax must be paid once again, this time to the correct bank account.

To avoid late payments in 2020, taxpayers should check their micro-accounts at the official website or at any tax office. The new account does not require any applications and is assigned automatically. The micro-account number is personalised in such a way that it includes the taxpayer's tax identification number (NIP or PESEL for individuals, NIP for corporate taxpayers).

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Turkey

Recent Developments in Turkey

New Bracket Addition and Obligatory Income Tax Return Filing for Specific Employees by Law No.7194

A new bracket was added to the income tax tariff and personal income tax rates on income and earnings for the employment income and earnings as of 1 January 2020 as mentioned below.

Taxable Income (Turkish lira)	Tax on column 1 (Turkish lira)	Tax on excess percentages
0 – 22,000		15%
22,000 – 49,000	3,300	20%
49,000 – 180,000	8,700	27%
180,000 – 600,000	44,070	35%
600.000 and above	191,070	40%

As of 1 January 2020, employees whose wage income exceeds TL 600.000 (for 2020) are required to file an annual income tax return regardless of the fact that those wages were earned from a single employer or more than one employer.

Foreigners' Employment Contracts Containing Partial Employment Period

As per legislation, foreigners (except foreign students and foreign university teachers) are not allowed to obtain a part-time work permit. Work permits for foreigners who are employed on a part-time work basis are regulated in accordance with the full-time work

permits. However, the Social Security Institution circular dated 18 March 2019 clearly states that it is possible for insured foreigner employees to provide notification about missing days in the case of going abroad without cancelling a work permit. The code "21-Other Unpaid Leave" should be used for missing day notification of those insured foreign employees. Thus, even though it is not possible to obtain a part-time work permit for foreigners (except foreign students and foreign university teachers), part-time employment of foreigners is possible.

The Foreign Employees Staying Abroad for an Uninterrupted Period of More Than Six Months

According to the "Foreigners and International Protection" legislation, short-term residence permits shall not be granted, shall be cancelled if granted, and shall not be renewed upon expiry if the holders *stayed abroad for more than 120 days in total within the last year except for mandatory public service, duty, education or health reasons.*

According to the International Workforce Law #6735, foreigners who are holding permanent work permits shall benefit from the same rights that long-term residence permits provide, and thus are exempt from residence permits. So, the aforementioned "120 days rule" should not be applicable to foreign employees working under a work permit in Turkey.

Nevertheless, foreign employees' work permits will be cancelled if the foreigner does not arrive in Turkey within six months as of the date of work permit, or, if the foreigner stays outside of Turkey for an uninterrupted period exceeding six months of his/her temporary work permit duration due to reasons other than force majeure, such as health and compulsory public service.

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Ukraine

Major amendments introduced in 2020 – affecting individuals' taxation

The start of 2020 saw major amendments proposed for the Tax Code of Ukraine, affecting individuals as well. The draft law has not yet been signed by the President of Ukraine, however, we do not expect any significant changes due to the presidential approval. We expect the new rules to come into force on 01/01/2021, however, some of the rules may take effect already within the year 2020 once the law is officially published.

Controlled foreign company (CFC)

The rules of CFC's taxation – as the step on implementation of OECD's recommendations on BEPS plan – will start working in Ukraine from 2021.

An individual resident of Ukraine owning a respective share or controlling the foreign company (partnership, fund, trust) is liable to

- file a report on CFC along with the large portion of personal data, information on CFC, its transactions;
- file CFC's financial report;
- file a tax return and pay taxes in respect of CFC's profit.

Part of CFC's adjusted profit proportional to the individual's share in CFC (with some exceptions established by the Tax Code) is subject to taxation with Military Tax (1.5%) and PIT at the standard rate (18%). Yet, the PIT rate may be reduced to 5% or 9% provided that certain criteria stipulated by the Tax Code are met.

Fines and interest penalties for violation in determining and calculating the profit of a CFC shall not be applied according to the results of 2021 – 2022 reporting years.

Dividends

Draft law suggests an extension of the definition of the 'dividends' term by adding to the definition payments that shall be qualified as dividends for the purpose of taxation, inter alia, payments made by a legal entity to its non-resident holder and/or participant which is related to reduction of chartered capital, purchase by a legal entity of own corporate rights, withdrawal of the participant from a business entity, and other similar transactions between a legal entity and its participant, if the transaction results in a reduction of the undistributed profits.

The draft law also sets aside treatment of "preferred dividends or dividends of other status that envisages the payment of a fixed dividends amount, accrued to the taxpayer under the shares or other corporate rights". Such dividends shall be treated as salary for taxation purposes and taxed with PIT at the rate of 18% instead of: 5% (if paid by a Ukrainian legal entity – CPT taxpayer) or 9% (if paid by a non-resident or Ukrainian legal entity – non-payer of CPT). Military Tax (1.5%) is also applied.

Mutual agreement procedure (MAP)

The mutual agreement procedure is envisaged in Ukrainian double tax treaties; however, the Tax Code did not envisage the procedure of pre-trial dispute resolution in this regard. The draft law finally introduces the mechanism of MAP to the Tax Code.

A taxpayer (resident or non-resident of Ukraine) considering that he/she is taxed or will be taxed by Ukrainian or foreign tax authorities in the way not corresponding with the provisions of Ukrainian DTTs, is entitled to apply for MAP if such is envisaged by the respective DTT.

If the tax authority accrued additional taxes on the issues raised in MAP application, such assessments are considered unsettled and are not due to be paid until MAP is completed. MAP might be applied for after the procedure of administrative appeal has ended.

Introduction of MAP is essential for taxpayers, as it is intended to become an additional defence mechanism for taxpayers before initiating court litigation.

Amendments for the year 2020 due to COVID-19 outbreak

Law on amendments to the Tax Code and other Laws to support taxpayers (effective since March 18, 2020):

- Extended the deadline for filing the annual income and asset declarations until July 1, 2020
- Extended the deadline for paying tax liabilities set forth in the annual income and asset declaration until October 1, 2020
- Penalty interest is not accrued and paid for the period March 1 – May 31, 2020

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