

Working Worldwide Newsletter July 2005



In our July Working Worldwide issue of 2005, we cover even more news from through out the world. As usual we invite you to send in feedback and comment on the articles covered. and look forward to keeping you up to date with changes to Taxtion, Immigration and Employment legislation around the globe in 2005

I hope you find the newsletter informative and useful, if you wish to discuss any of the topics please send me an email or call me on **+44(0)20 7484 3000**.

As always we welcome your feedback on any of the issues raised, or the Newsletter itself to **webfeedbackUK@glotel.com**.

Regards,

Lara Pritchard
Tax & Compliance Director

The information contained in this newsletter is strictly confidential and may only be read, copied and used by the intended recipient. This newsletter is intended as a general guide only, and the application of its contents to specific situations will depend on the particular scenario(s) involved. Consequently, we recommend that readers seek appropriate professional advice regarding their particular circumstances.



Bulgaria and Romania

On track for EU Accession

Bulgaria & Romania signed the Accession Treaty to the EU on 25 July 2005 and are due to become Member States on 1 January 2007, bringing the EU to a total of 27 countries. The accession date may be postponed if Bulgaria or Romania fail to fully implement the 'acquis communautaire', though both countries have made considerable progress in bringing their laws, regulatory frameworks and administrative practices in line with EU requirements for membership.

Denmark

What happened to the anticipated invasion of cheap labour from the new Eastern EU countries?

In December 2003 the Danish Parliament passed a set of transitional rules with the aim to prevent an uncontrolled influx of workers from the new Eastern European EU countries. The law demands that work be performed under the conditions of a collective agreement; but one year after the expansion of the EU it is a fact that the expected invasion did not take place.

A majority in the Danish Parliament supported the rules, which aimed to protect the balance of the Danish labour market as well as protecting the social welfare system against 'social tourism' from the East. As Denmark has no national minimum wage defined by law or by collective bargaining, the initiative was also intended to support the existing collective agreement system (called the Danish Model) where wages are agreed in accordance with the industry sector and company level.

According to the transitional law, workers from the Eastern European countries can only obtain working and residence permits if the work to be done in Denmark is a full-time job paid according to a collective agreement. A number of public authorities including the tax authorities, the police, the Danish Immigration Service and the Regional Labour Market, and representation from the social partners, monitors immigration to ensure that the rules are observed.

One year on it seems that the rules have worked. So far there has been no invasion of economic migrants. As of July 2005 the Immigrant Service had received 5,167 applications for working and residence permits from citizens in the new Eastern EU countries. The current status is that 3,250 have received a permit.

France

French tax authorities have issued instructions that provide a favourable tax regime for individuals seconded to France

The new regime is designed to encourage non-resident companies to send their employees on temporary assignments to related companies in France.

From 1 January 2004 two incentives are available under the expatriate regime, provided that the individual has not been tax resident in France in the previous 10 years:

- An income tax exemption for an expatriate's compensation allowance as described below, and
- Income tax deductions for foreign social security and retirement pension contributions made in the home country.

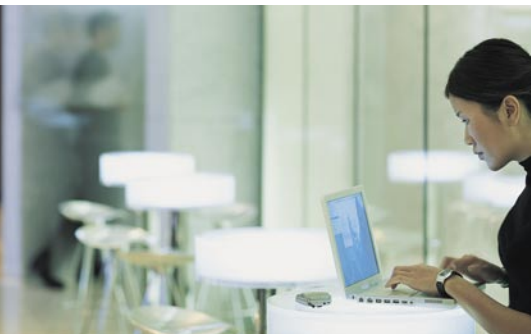
Compensation allowances relating to housing, cost of living allowances, mobility premiums, taxes paid by the employer, etc, which are specified in an addendum to the employment contract or laid out in a separate letter, will be exempt from income tax in France. This is provided that the individual's declared remuneration is not lower than the remuneration received by a 'local' for doing a similar job.

Pension contributions may be deducted from taxable income if the plan is established in line with national legislation and practice. In addition, the assignee should contribute to this plan prior to the assignment and should be able to prove such payment.

Individual income tax cuts suspended

Dominique de Villepin, the new Prime Minister, announced on 8 June 2005 that income tax rate reductions of one-third over a 5-year period, as promised during the 2002 presidential campaign will be suspended in 2006.

The main focus of the new government will be to combat unemployment by reducing employers' contributions on salaries paid to employees of very small enterprises (i.e. less than 10 employees). In addition, the Prime Minister announced that a €1,000 bonus paid within the framework of the employment bonus will be granted to long-term unemployed persons who return to work.



France / Switzerland

Definition of frontier workers under Franco-Swiss tax treaty clarified

Guideline (BOI 14 A-5-05) of 18 May 2005 contains an agreement, between the French and Swiss tax administrations, in which the states agreed on a standard definition of frontier workers.

According to the Double Tax Agreement ("DTA") between France and Switzerland, employment and other related income received by frontier workers is exempt from individual income tax in the state of employment and is taxed in the state of residence. The DTA provides that the term "frontier worker" shall mean "any person resident in a State who carries on a salaried activity in the other State for an employer established in that other State and who, as a general rule, returns daily to the State in which he is resident".

This Guideline clarifies the definition of "frontier worker", and of the "daily return to the residence state" criteria, as follows:

- the definition of frontier worker under the France-Switzerland tax treaty is independent from that of the European Community-Switzerland free movement of persons treaty signed on 21 June 1999 ;

- the number of nights spent in the state of employment (including nights spent in a third country for professional reasons) may not exceed 45 per year. For employees working full-time who exercise their employment activity for a period of less than a calendar year, the threshold is 20% of the total number of working days. For employees working part-time, the 45-day threshold is decreased.

The burden of proof lies with the tax authorities, although the fact that the employee rents or can make exclusive use of an accommodation in the state of employment constitutes a presumption that the employee is not a frontier worker.



Italy

Court holds that Italian Regional Tax on Productive Activities (IRAP) is incompatible with EC Sixth Directive on VAT

The taxpayer, a professional surveyor, requested a refund of the IRAP paid in tax years 1998-2001, claiming that he had no autonomous organization and therefore was not liable to the IRAP. The tax authorities denied the refund and the taxpayer brought the case before the Provincial Tax Commission. The Court rejected his claim and the case was brought before the Regional Tax Commission of Piemonte.

The Court, without considering the merits of the claim analysed ex officio the compatibility of the IRAP with the EC Sixth Directive. It concluded that the IRAP is incompatible with Art. 33 of the Sixth Directive and therefore allowed a refund of the IRAP paid by the taxpayer.

The Court, in basing its decision primarily on the opinion of case (C-475/03 Banca Popolare di Cremona, held that IRAP has the essential characteristics of VAT because:

- it applies generally to transactions relating to goods or services;
- it is imposed on the added value of goods and services;
- it is charged at each stage of the production and distribution process; and
- it is proportional to the price of those goods or services, whatever the number of transactions carried out.

Ruling on computation of foreign 'Permanent Establishments' (PEs) income

The Italian Tax Authorities issued Ruling No. 69 on 1 June 2005 regarding the computation of foreign permanent establishment's (PE's) income for Italian tax purposes.

- Facts. An Italian bank maintained a PE in Romania, through which most of its activities were carried out. The Romanian tax paid on the income attributable to the PE was higher than that payable in Italy on the same income. This was due to the non-deductibility in Romania of head office expenses and to the application of different rules to compute taxable income.
- Taxpayer's request. The taxpayer requested a ruling on the allocation of the head office expenses and on the computation of the income attributable to the Romanian PE for double taxation relief purposes. The taxpayer argued that

under the applicable Italy-Romania tax treaty, it was entitled to exclude from the tax paid in Romania the tax paid on items of income not taxable in Italy, and to subsequently recapture it when the income would effectively be subject to tax in Italy.

- Ruling. The Italian tax authorities referred to Arts. 26 (Non-discrimination), 25 (Double taxation relief) and 7 (Business profits) of the Italy-Romania treaty and stated that head office expenses incurred for the purposes of a PE must be allowed as a deduction from the PE taxable income.

With reference to the determination of the PE income for double taxation relief purposes, the tax authorities stated that the treaty provision only contains the general obligation to grant relief, leaving to the domestic legislation to specify how this should be applied. According to the tax authorities, PE income has to be determined on a unitary basis, without taking into account the individual items of income that constitute the total taxable income. Finally, the tax authorities referred to the recently amended Italian domestic legislation according to which excess foreign tax credit may be carried back and forward for 8 years.



Lithuania

Several amendments to Lithuanian tax system

On the 7 June the parliament passed a number of tax laws reforming the Lithuanian tax system. The major changes are reflected by a shift in the income tax burden from individuals to businesses.

Individual income tax:

effective from 1 July 2006, the current tax rate of 33% will be reduced to 27% and to 24% from 1 January 2008.

Foreign tax credit is now available to individuals resident in Lithuania who received income in a foreign country provided the source country is not in the government's black list of tax havens;

Social tax:

In order to counter the impact caused by the reduction of the individual income tax rate, the government approved a provisional law (intended to be applied in 2006 and 2007 only) introducing a new 'social tax', which should finance social-oriented programmes and measures. The main features of the law are:

- taxpayers are legal entities that pay corporate profit tax;
- tax base is the taxable profit assessed in the same way as for corporate profit tax purposes;
- tax rates will be 4% in 2006 and 3% in 2007, which will increase the corporate profit tax from 15% to 19% and 18% respectively.

New Regulation of Guarantees for Posted Workers in Lithuania

On 12 May 2005 the Lithuanian Parliament (Seimas) adopted the Law on Guarantees for Posted Workers (hereinafter the "Law"). The purpose of the implementation is to abolish existing obstacles for the free movement of employees between Member States of the EU and EEA, as well as to clarify the rules applicable to the employment relationship in the EU Member State where the work is performed.

The Law shall be applicable when undertakings established in Lithuania post workers for a limited time to the territory of other EU Member State, as well as when undertakings established in other EU Member States post workers for a limited time to Lithuania.

The Law does not specify the term "for a limited time". The worker, however, is

considered to be performing work for a limited period time of his secondment to Lithuania or to another EU Member State and he/she continues working for his employer (i.e. during the posting the employment relationships do not expire). It's important to note that this law will not be applicable in respect of business trips which last for a maximum of 30 days.

In case there is an employment relationship between the undertaking making the posting and the worker during the period of his posting, the Law shall apply to the extent that the employer takes one of the following trans-national measures:

- post workers to the territory of another Member State under an agreement concluded between Lithuanian employer and the beneficiary company, operating in that EU Member State; or
- post workers to a company, belonging to the same group of associated companies, Lithuanian employer's branch or representative office in the territory of another EU Member State; or
- being a temporary employment undertaking or placement agency, hire out a worker to a beneficiary company established or operating in the territory of another EU Member State.

The Law shall also apply when the employee is posted to Lithuania from another EU Member State under the above mentioned conditions.

In spite of the use of a 'choice of law' clause in the employment agreement, Lithuanian laws should be applied with regard to the employee, posted to Lithuania. Such applicable rules establish protective guarantees and include inter alia maximum work and minimum rest periods; minimum paid annual holidays; minimum rates of pay (including overtime rates); health, safety and hygiene at work guarantees; protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, as well as of young people and non-discrimination provisions. However, in case the law chosen by the parties to the employment agreement establishes more favourable conditions for the employee rather than those provided by Lithuanian law, provisions of the applicable law chosen by the parties shall be applied instead.



The Netherlands

As reported in the January 2005 issue of WorkingWorldwide the Dutch Government adopted a new regulation to attract highly skilled foreign employees. This policy has now been implemented.

The scheme applies to what is known as 'knowledge migrants'. Knowledge Migrants no longer require a work permit and only require a residence permit that can be granted in 2 weeks.

There are just 2 conditions enabling qualification:

- The Knowledge Migrant should earn a gross salary of at least €45,000 per year (€33,000 if under 30).
- The employing company will need to register at the Immigration and Naturalisation Services (IND) on a once-only basis. The company will be required to sign a declaration to pay the fees for the residence permit and that his/her employee will be paid a salary in excess of €45,000.

Once the above conditions have been met the Knowledge Migrant must apply for a temporary residence permit. EU and EEA nationals along with nationals of Australia, Canada, Japan, New Zealand and the USA are exempt from this requirement. The employer needs to start the procedure by applying for an MVV at the IND. This should take approximately 2 weeks and the MVV may be collected by the Knowledge Migrant at the Dutch Embassy or Consulate in his/her own country.

If an MVV is necessary, the knowledge migrant must then apply for a residence permit. Again the employer must apply at the IND. As soon as the IND has given a positive decision, which they aim to do within 2 weeks, the Knowledge Migrant is able to work, picking up their residence permit in the Netherlands.

Spain

The Confederation of Employers' Organisations (CEOE) and the Ministry of Labour consider their positions on reforming the labour market

The chairman of the CEOE announced that they will put before the bargaining commission a proposal for a new stable work contract of fixed duration for works or services to be negotiated in collective agreements. However, the president of the

CEOE did not give precise details of the characteristics of the new contract.

The CEOE feels that the negotiation must focus on improving the amount and quality of employment, and the question of dismissal is not a central issue in the debate. The quality of employment, access to apprenticeships, and vocational training are now key questions for improving the productivity and competitiveness of the Spanish economy.

On 26 April the Ministry of Labour responded with a proposal for penalising temporary contracts by increasing contributions. The Socialist government proposes that employers should pay a higher unemployment contribution for temporary contracts. The proposal by the Ministry of Labour is to raise these contributions by 1.5 points for temporary contracts and to reduce them by 0.5 points for permanent contracts in order to make the latter more attractive. The Ministry thus rules out the possibility of a general reduction in contributions put forward by the CEOE.

With regard to temporary contracts for work and service, the Ministry of Labour considers that they should be an exceptional option channelled through temporary employment agencies. The Ministry also considers that contractors and subcontractors should have a fixed core of employees.

Finally, in relation to dismissal, the proposal of the Ministry of Labour is to generalise the formula laid down in the Multi-Sector Agreement for Employment Stability signed in 1997 consisting in a compensation of 33 days per year of seniority compared with the normal 45 days.



Portugal

Standard rate of VAT increased

By way of Law 39/2005 the standard rate of VAT is increased from 19% to 21% in mainland Portugal and from 13% to 15% in the Autonomous Regions of Madeira and the Azores with effect from 1 July 2005. This and other austerity measures (i.e. the introduction as from 2006 of a new individual income tax bracket for annual income of EUR 60,000 and above, which is taxed at 42%) were announced in order to address the anticipated 2005 public deficit of 6.8%.

In addition, the Government announced new measures to combat tax fraud and evasion, which amongst others include:

- the implementation of a plan to improve the collection of tax debts;
- the increase of the penalties for tax infringements;
- the intensification of the exchange of data among the tax authorities, the social security authorities and other public entities.

Finally, the government also announced plans to limit certain corporate tax incentives.

Tax amnesty expected for undeclared funds held abroad

It has been reported that the Government will shortly announce a tax amnesty programme that will enable Portuguese residents to repatriate offshore capital free from all obligations in exchange for payment of a one-off tax charge of 5% of the undeclared funds held abroad.

The Budget Bill for 2005 had authorised the previous government to issue a law to provide that resident taxpayers who are holders of securities located abroad would be dispensed from all obligations relating to interest and other economic advantages in exchange for payment of a tax equal to 5% of the value of the relevant securities.



United Kingdom

The UK wins first stage of the fight to maintain its “opt-out” from the European Working Time Directive (WTD).

On 11 th May 2005 the European Parliament approved proposals to amend the WTD, including phasing out the right to opt-out from the 48 hour week as follows:

- Phasing out the ability to opt out of the maximum working week within 3 years of the amended directive
- Enabling the reference period for calculating the average working week to extend from 4 months to 1 year.
- Counting time on call as working time
- Ensuring workers with more than one job are protected
- Giving employees the right to have requests to vary their hours considered seriously by employers.

However sufficient EU Employment Ministers opposed the plan to prevent any vote on the issue taking place.

The Employment Ministers of Germany, Poland , Austria , Hungary , Malta and Cyprus backed the UK ; whilst France , Belgium , Sweden , Spain , Greece , Finland and Lithuania all wished the opt-out to be removed.

The issue is now not likely to return until next year, especially as the UK took over the presidency of the EU on 1 st July 2005 , and will almost certainly aim to put the matter firmly at the bottom of the agenda.

UK government introduce the Immigration, Asylum and Nationality Bill to the House of Commons

In a bid to strengthen UK borders and to prevent illegal working the UK the government introduced to The House of Commons the first part of its 5-year strategy, initially outlined in April's WorkingWorldwide.

The main purposes are to:

Strengthen borders by:

- Allowing data sharing between border agencies. The immigration service, Police and HM Revenue and Customs will be able to access passenger info more easily.
- Supporting the global rollout of fingerprinting visa applicants by giving powers to immigration officers to verify against biometrics contained in travel documents.

Tackle Illegal Working

- The bill will produce a new civil penalty of £2,000 on those who employ illegal workers (See note 1), if the offender cannot prove they complied with the “prescribed requirements”. The Home Office will issue a penalty notice and the fine will be payable within 14 days.
- The bill will also introduce an offence of knowingly using or exploiting an illegal worker which will render the employer liable to a custodial sentence of up to 2 years or an unlimited fine.

Restricting appeals

- Limiting rights of appeal for those refused entry to the UK to work or study and restricting rights of appeal in family visit cases to close family only, emphasising that entry to the UK for managed migration purposes is a privilege and not a right.

A full copy of the bill can be found at www.homeoffice.gov.uk

Note 1

It is already unlawful to employ someone who is not entitled to work in the UK with fines up to £5,000 levied. However, the new provisions will give the home office the power to impose fines without a court hearing.

Arctic Systems s660A appeal decided in the favour of HM Revenue and Customs.

In a blow for contractors, a long running appeal by Arctic Systems, was denied by Park J who strongly upheld last year's controversial Special Commissioners' decision that the s660A settlements legislation applies.

The decision in the high court in favour of the authorities will be expensive for many family businesses, although Park J himself admitted this might not be as widespread as first thought.

“It seems to have caused much consternation (the judgement). In my view apprehensions that almost every case of a husband and wife company is going to be affected by this case is greatly exaggerated. If a husband and wife set up a joint company and run it together (for example, the company owns a shop and they both run and staff it), it does not follow from my judgement in this case that the husband is going to be taxed on the wife's dividends”



United Kingdom (continued)

It can be derived from this that family companies where the working spouse is paid a full salary may fair better.

Additional guidance has been published by HMRC and is available on their website, this case will be taken to the Court of Appeal

Agency worker or 'end-user' Employee? We take a look at recent employment claims

In the case of Bushaway vs RNLI the Employment Appeal Tribunal (EAT) upheld the decision by the Employment Tribunal finding for Ms Bushaway.

Ms Bushaway was a temporary worker who worked through an agency on site for the RNLI for 5 months. During this period the RNLI advertised Ms Bushaway's post as permanent. Ms Bushaway applied and was successful in getting the full time position. By this time she had worked in a temporary capacity at the RNLI for 6 months. The permanent employment only lasted for a period of slightly over 6 months. Ms Bushaway then claimed for unfair dismissal upon the basis that her employment lasted more than a year, which it did if you include the temporary part of the assignment.

The RNLI in its defence relied heavily upon clauses in the temporary contract that there was no mutuality of obligation and that agency paid the worker. These arguments were not accepted.

The **implication** in this case is that in any temp to perm role the worker would be regarded as an employee of the end user from the start of the assignment.

The second case that went to the EAT was Astbury vs Gist. Mr Astbury provided services to Gist as a line picker through an agency. He was placed in October 2001 and should have been working on a rotational shift pattern of 30 hours per week, in reality though this never occurred and he actually worked Monday to Saturday every week. In September 2003 he was not offered work and not paid for a day, then it became every Monday. Mr Astbury argued he was an employee of Gist and claimed for unfair deductions of wages.

The tribunal found against Mr Astbury due to the express terms written in his contract stating he was not an employee, however, they did concede he may have had a case if the claim was for unfair dismissal.

Mr Astbury subsequently appealed to the EAT and was successful. The EAT was critical of the tribunals judgement by stating that no distinction existed between unlawful deductions of wages and unfair dismissal. The EAT also stated that a contract for services between Mr Astbury and the agency did not mean there could not be an implied contract between Mr Astbury and Gist. The EAT criticised the tribunal for not carrying out a full factual investigation in order to determine whether was an implied contract. Such as the fact Mr Astbury did not work 30 hours per week as his contract stated.

The EAT noted the primary reason for the lack of facts was due to the fact the agency was not present at the tribunal the EAT referred the case back to the tribunal and suggested the agency should attend. Final result - **Pending**

HM Revenue and Customs has issued guidance on dual contract arrangements, there will be a change in emphasis in the way HMRC will approach enquires involving dual contracts.

As mentioned in the May 2005 edition of WorkingWorldwide, HM Revenue and Customs (HMRC) planned to review their guidance on dual contract arrangements. The HMRC is concerned that some dual contract arrangements are an attempt to exploit the legislation exempting overseas earnings that are not supported by the factual position. The full guidance can be found in HMRC Tax Bulletin 76.

Any of the following may cause the HMRC to investigate a dual contract arrangement.

- Is there a proper contract under the appropriate territorial jurisdiction for each employment?
- Is the dual contract arrangement based solely on the geographical location at the time the work is carried out?
- Are there two distinguishable jobs?
- Are salary and bonus payments separated?
- Was the job originally advertised as a single job and the dual contract put in place only after a foreign-domiciled person filled the job?

If the HMRC finds the dual contract arrangement to be invalid there are two possible implications. Firstly, if the HMRC takes the view there are separate jobs but all the work is being performed in the UK,



United Kingdom (continued)

the employee will have a tax liability that will have to be paid to the HMRC. Secondly, if the HMRC finds there is only one employment carried out for the good of the UK company the UK employer will need to account for PAYE and NIC on the income paid to the employee 'overseas'.

With these new guidelines dual contracts should only be entered into with considerable confidence and sound legal advice.

Whose IP rights are they anyway? Who owns the copyright when sub-contractors develop software for businesses?

In a recent study by the patent office 70% of UK businesses risk losing the Intellectual Property Rights (IPR) when signing deals with sub-contractors. 40% of business just assumed the IPR belonged to them while 30% had no idea who they belonged to.

To clarify - the copyright actually sits with the sub-contractor unless the commissioning business clearly states, in a written contract, before work is carried out that the ownership is theirs.

Glotel ensure all contractors sign a clause vesting all IPR rights with our clients.

Panama

Recent Tax reforms in Panama will affect resident and non-resident companies and individuals.

Corporate Income Tax

With the aim of reducing the number of taxpayers claiming excess expenses the Government has brought in a presumptive tax regime which makes taxpayers assess their income tax liability on the higher of the normal 30% on net income or 30% of gross taxable sales.

Withholding Tax

Payments (including Royalties and service payments etc.) by Panamanian companies and foreign companies where the payment benefits a Panamanian company may be subject to withholding tax at the rate of 15%.

Personal Tax for Expatriates

Individuals resident in Panama for 70% or more of the tax year will be taxed on their full income from 2005 even if part of the services are performed outside of Panama. In addition, it should be noted that Panama does not recognise taxes paid to other

countries, which could result in double taxation.

Peru

Applicability of reduced withholding tax.

In the May 2005 edition of WorkingWorldwide we covered the new reduced withholding tax for technical assistance services. In order to determine if this rate would apply the definition of Technical Assistance needs to be analysed. The Peruvian income tax regulations stipulate that Technical Assistance includes "... any independent service performed in Peru or abroad, by virtue of which the service provider uses its abilities through the exercise of procedures or techniques, in order to provide specialised knowledge necessary for the performance of the activities of the Peruvian recipient." In addition, the legislation contains the following list of activities that are always included:

- Engineering services
- Investigation and project development
- Consulting and financial advisory services

The Peruvian authorities interpret the above list quite narrowly, therefore the provision of contractors to perform the above services would not be included, as the primary service is the 'provision of staff'. The provision of temporary contractors by a non-resident entity would be subject to the full withholding tax rate of 30%.



Australia

Foreign Income Exemption for Temporary Residents Proposed

The 2005 Australian Federal Budget includes an intention to reintroduce previously rejected legislation to provide a four-year income tax exemption for temporary residents on most of their foreign income and gains.

The proposed measures, which will apply to individuals on temporary resident visas in Australia, will provide a four-year income tax exemption for such temporary residents for most foreign-source income and gains on the disposal of foreign assets. Additionally, interest withholding tax obligations with respect to interest paid on foreign loans will be abolished and the onerous reporting and tax rules of the foreign investment fund regime will not apply, regardless of the period of residence.

The new law is not expected to take effect until 1 July 2006, after the government gains control of the Senate, leaving temporary residents exposed to Australian tax on worldwide income and gains in their June 2005 and 2006 tax returns.

SuperChoice

From 1 July 2005, changes to the law mean that many Australian employees will be able to choose which fund their employer's future superannuation guarantee contributions are paid into. It is not essential to make a choice as employers have to elect a default fund and if no choice is elected then superannuation contributions will be paid into the default fund.

A fund can be chosen at anytime, but an employer has to accept only one choice from an employee in a 12-month period.

More information can be obtained from <http://www.superchoice.gov.au>

457 Visas Require a minimum income for applicants

In order for applications for 457 visas to be considered the minimum income requirement has been raised to AUD 50,775 for individuals with IT skills and AUD 39,100 for other skills from 2 July 2005.

E3 visas for Australians working in the United States

The E-3 visa is a visa created by the United States Congress. The current status is that it has been signed by President Bush, but is awaiting "implementing regulations" and

sign-off by the US Labour Department, Homeland Security and the State Department. These sign-offs are expected to take between 3-6 months.

The E-3 professional visa is for Australian nationals who wish to enter the United States temporarily to work in a specialty occupation. The E-3 visa allows Australian nationals to work for any U.S. employer in a specialty occupation, where this is accompanied by a job offer. The US employer will need to secure a Labor Condition Application (LCA) for the US Labor Department and will need to guarantee that:

- the salary paid will be at the same level as a local hire
- the proposed salary and position will be displayed at their business premises
- They will maintain a public inspection file relating to this position

There is an annual limit of 10,500 E-3 visas for Australians for each fiscal year. This limit applies only to the primary E-3 visa recipient – visas issued to spouses and dependent children do not count.



India

India

Personal Income Tax Rates for 2005-2006 are detailed below:

Annual Income (INR)	Rate*
0 – 100,000	0%
100,001 – 150,000	10%
150,001 – 250,000	20%
250,001 + (approx. USD 5,750)	30%

* A 2% Education Cess will be added to the tax figures above

A surcharge of 10% will be levied should the annual income exceed INR10,000,000 (approx. USD 230,000)

Withholding Tax

The 2005 Budget led to a change in the calculation of local Withholding Tax applied to payments between Indian entities in the form of the addition of a 10% Surcharge to all local services.

The new rates are as follows:

Basic Rate	5%	5%
Education Cess	2%	0.1%
Surcharge of	10% of the	5.1% 0.51%
TOTAL		5.61%

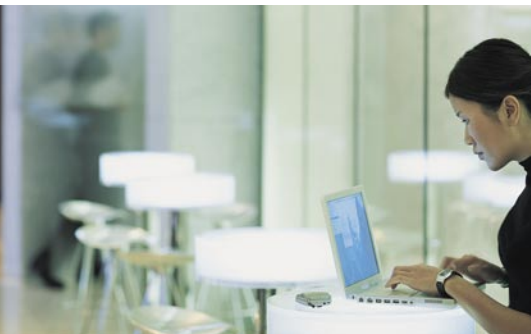
Recent Case Law on Fees paid to US companies being subject to withholding tax

As with many countries the category the services fall within determines to what extent the fees are subject to withholding tax, the result of which could mean anything from full exclusion to full payment with consequences often affecting the overall cost of the services. In India there have been two recent cases highlighting the effect of services being categorised as 'fee for included services' which is subject to withholding tax versus business services which is exempt in certain circumstances.

The first case supported India's narrow interpretation of 'business income' and deemed the payments to be 'fees for included services' based on the fact that the agreement went beyond advice and included preparation of designs and drawings necessary for implementation of a water system.

In the second case the Appeal courts went the other way, classifying the fees as Independent Personal Services not taxable

in India as compared to 'fees for included services'. The services in this instance were the provision of legal advice by a US law firm. Under the Double Tax Treaty between India and the US professional fees, including legal services, are specifically defined as independent activities. This narrow definition has priority over general principals which include managerial, technical or consultancy services under the definition of 'fees for included services'.



New Zealand

Proposed reforms of Tax geared towards Encouraging International Recruitment

The Government has issued a discussion document detailing proposals to introduce tax incentives to employees recruited from overseas and returning New Zealanders. This could include time limited exemptions from tax on overseas investments and enable New Zealand to attract international employees.

NZ granted access to Australia wine rebate

From July 1 st 2005 New Zealand's wine producers who export to Australia have access to Australia's wine equalisation tax rebate, Revenue Minister Michael Cullen announced today.

Australia introduced the rebate last year to compensate wine producers in part for the 29 per cent wine equalisation tax charged on the wholesale price of wine sold on the Australian market. Wine producers are eligible for a rebate of up to A\$290,000 a year.

This will enable NZ wine producers to compete in the Australian market, but will be subject to New Zealand income tax, as are other government grants to business. Australia also taxes such rebates.

Tax discounts for new small businesses

From April 1 st 2005 a 6.7% tax discount becomes available to many self-employed people and members of partnerships in their first year of business.

The discount is designed to reduce some of the financial strain that small businesses face in those vital first three years of business and will encourage people who are starting up in self-employment and partnerships to make early payments of tax in the year before they begin to pay provisional tax.

Other measures being discussed are the aligning provisional tax and GST payments, allowing small businesses to base provisional tax payments on GST turnover and helping small businesses with PAYE

Thailand

New Pension fund

The Department of Fiscal Policy recently submitted a draft proposal to establish a 'National Pension Fund'. The fund will require employer and employee to each contribute 3 percent of salary, and would be effective January 1, 2007 .

Companies without a provident fund will participate in the new National Pension Fund. However, there has been very little information from the authorities so far on how companies with existing provident funds will be treated (in particular, whether these existing plans can be used to meet the new requirements).

The government estimates that there will be 9 million workers covered by the new requirements. It is estimated also that it would generate an additional 80 billion Baht (around USD2 billion) of national savings per year.

Iran

Parliament approved Budget Law

Lots of changes have already taken place since the Budget Law's approval in Iran . Here are a few pertinent ones for the recruitment industry

Personal income tax

The salary tax rates have changed effective from 21 March 2005 . The new rates for the private sector are as follows:

Gross monthly salary (IRR)	Rate
up to 1,900,000	exempt
1,900,001 – 5,400,000	10%
5,400,001 – 10,233,333	20%
10,233,334 – 22,733,333	25%
22,733,334 – 85,233,333	30%
Over 85,233,333 (approx. USD 1,100)	35%

Another important change relates to the new salary ceiling for social security premium. The Social Security Organization has raised the ceiling of daily wages and allowances subject to social security premiums from IRR 166,556 to IRR 208,000 per day effective from 21 March 2005 .

Draft VAT law

The plenary session of the parliament approved in a first reading on 19 July 2005 a draft VAT Law. Under the proposal, supplies of goods and services, as well as imports and exports, will be subject to VAT at a rate of 7%.



Pakistan

Details of Pakistani Budget 2005/06

The Pakistani Budget for the fiscal year 2005/06 was presented on 6 June 2005. The Finance Bill 2005, which contains the Budget proposals has been tabled before the Pakistani Parliament, and may be amended prior to being approved. Here are some key points for individuals.

It is also important mentioning that the employer's contribution for employees under the Employees Old Age Benefits Act 1976 is to be increased from 5% to 6% of gross monthly wages.

The proposed tax rates for employment income are as follows:

Amount (PKR)	Rate
Up to 100,000	0%
100,001 – 200,000	3.5%
200,001 – 400,000	12%
400,001 – 700,000	25%
Over 700,000 (approx. USD 11,700)	30%

Glotel.