

PRISM

Tax Newsletter

1st Quarter 2023

**Bangladesh: Proof of Submission of Return (PSR) u/s 184A
Finance Act 2022 (Bangladesh)**

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Bangladesh

Proof of Submission of Return (PSR) u/s 184A Finance Act 2022 (Bangladesh)

A major change has been made in requirement to furnish a proof of filing income tax return through section 184A in the Finance Act 2022 substituting the said section of previous year 2021. The substituted section of law is titled as 'proof of submission of return (PSR) required in certain cases' while in the previous year 2021 the title was 'requirement of 12 digits Taxpayers Identification Number (TIN) in certain cases'.

This provision of law has been made mandatory for 38 kinds of services wherein a person responsible for providing any said services shall not provide the service unless a proof of submission of return is furnished before him by the taxpayer.

2022年孟加拉财政法：根据第184A条提交的申报表(PSR)证明

2022年财政法第184A条取代前一年2021年的相关条例部分，按此提交所得税申报表证明的要求出现了重大更改。在前一年2021年，条例名为“在某些个案下提供12位数纳税人识别号(TIN)”的相关要求，被取代为“在某些个案下，提交申报表证明(PSR)的相关要求。”

这项法律规定对38种服务是强制性。除非纳税人向负责提供任何上述服务的人提交申报表证明，否则该服务提供者不得提供该类服务。

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Brazil

A New Foreign Exchange Mark in Brazil

Since the Getúlio Vargas Government (1933), it was only in late 2022 that several resolutions of the Brazilian Monetary Board (CMN) and the Brazilian Central Bank (BACEN) were updated containing the new norms on foreign exchange and international capital (foreign capital in Brazil and Brazilian capital abroad), so as to regulate Act No. 14.286/2021, which corresponds to the New Foreign Exchange Mark in Brazil.

巴西的新外汇指标

自热图利奥-瓦加斯政府在1933年执政以来，巴西货币委员会(CMN)和巴西中央银行(BACEN)的数项决议直到2022年底才被更新，其中包括外汇和国际资本(巴西境内的外资和巴西境外的资本)的新规定，以便规范第14.286/2021号法案，相当于巴西的新外汇指标。

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Cyprus

Updated Cyprus Tax Incentives for first employment in Cyprus

On 26 July 2022, the House of Representatives in Cyprus voted amendments (under Article 8(23A) of tax regulations and incentives for the first employment income under certain conditions.

在塞浦路斯首次就业的最新塞浦路斯税收优惠

2022年7月26日，塞浦路斯议会对税法第8(23A)条关于满足某些条件的首次就业取得的收入可获得税务激励的规定进行了修改。

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Greece

Strong economic momentum in 2023

The Greek economy remains resilient even in 2023, when recession or zero growth is predicted in the Eurozone. Although the growth rate will be much lower than the 6% that is expected to close in 2022 but even the adverse scenario predicts growth of 1.6% for 2023. Equally important as growth is the prospect of the Greek economy returning to primary surpluses. The positive forecasts were based on two main factors. Firstly, the increase in investments through the action of the Recovery and Resilience Fund and secondly, the stimulation of exports. The fiscal support measures incorporated in the 2023 budget also contribute positively.

2023年希腊经济势头强劲

即使2023年欧元区经济可能会出现萎缩或零增长，本年度希腊的经济仍然维持稳健。虽然增长率将远低于2022年末预测的6%，但即使在不利的环境下，2023年预测的增长率至少仍有1.6%。与增长同样重要的是，希腊经济恢复到有基本盈余的前景。希腊的经济预测乐观，是基于两个主要因素，首先是透过复原基金所增加的投资，其次是出口贸易受刺激。纳入2023年预算的财政措施也起了积极作用。

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India

GST on Secondment in India

The secondment between several entities within a Multinational group is a common feature. Secondment poses several complex tax and legal issues in several jurisdictions and India is no different. The recent blow is the applicability of the Goods and Services Tax (GST).

The Hon'ble Supreme Court of India gave a verdict last year that the employees working under secondment arrangements cannot be considered actual employees of the secondee (Indian) company. Instead, the foreign entity that seconded the employees continues to qualify as their employer, and the arrangement between the two entities is in the nature of "manpower recruitment or supply agency service," leviable to Service Tax under the erstwhile Service tax law replaced by GST in 2017. Due to the same kinds of provisions, the judgment is equally applicable to the present GST regime as well.

印度借调工作所产生的商品及服务税

跨国企业内几个实体之间进行借调是一个普遍现象。借调在几个司法管辖区带来了几个复杂的税务和法律问题，印度也不例外。最近严厉规管的是商品和服务税 (GST) 的适用范围。

印度最高法院去年作出裁决，根据借调安排工作的员工不能被视为借调(印度)公司的实际员工。相反，借调员工的外国实体仍然有资格成为他们的雇主，两个实体之间的安排属于“人力招聘或提供代理服务”的性质，根据2017年被商品及服务税取代的旧服务税法，可以征收服务税。由于有同样的规定，该判决同样适用于现行的商品及服务税制度。

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Italy

Italian 2023 Budget Law

The 2023 Budget Law, Law no. 197 of 29 December 2022, published in official gazette no. 303 on 29 December 2022, and effective 1st January 2023, introduced several tax measures that may be of interest to multinational enterprises with Italian operations, including:

- Limited deduction of costs incurred with black-listed jurisdictions
- Transition tax on undistributed profits from low-tax subsidiaries
- Step-up of Italian participations held by nonresident entities
- Permanent establishment exemption for investment management activities
- One-off energy windfall tax

意大利2023年预算法

2023年预算法，即2022年12月29日第197号法律，刊登在官方公报第303号，于2023年1月1日生效，该法引入了一些可能对在意大利开展业务的跨国企业感兴趣的税收措施，包括：

- 有限扣除黑名单司法管辖区产生的费用
- 低税子公司未分配利润的过渡税
- 加强非居民实体参股意大利公司
- 常设机构投资管理活动的豁免
- 一次性能源暴利税

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Malaysia

Budget 2023 Retabled On 24 February 2023

On 24 February 2023, the Prime Minister and Finance Minister of Malaysia, YAB Dato' Seri Anwar Ibrahim announced Budget 2023 (Retabled) themed "Developing Malaysia MADANI". This Budget reflects the principles of accountability and pure value system that can address the current challenges including the highly uncertain global economic challenge.

2023年预算案于同年2月24日重新提交

马来西亚首相兼财政部长拿督斯里安华在2023年2月24日重新提呈了主题为“建设昌明大马”的财政预算案。这份财案体现了问责制和纯价值体系的原则，以应对当前的挑战，包括高度不确定的全球经济挑战。

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Nepal

Digital Service Tax in Nepal

Nepal introduced a 2% digital service tax for non-resident (foreign) digital service providers (services include Advertisement, Data storage service, Cloud service, Gaming, E-Commerce, and Other Similar Services) having annual transactions above NPR 2 million (approximately USD 15,500). Non-residents must apply to the Nepalese tax authorities for registration within 30 days of crossing the transaction threshold, file their return to the office online, and pay their taxes within three months after the end of the tax year (mid-July). In the event of a delay, annual fee of 0.1% annually and interest of 15% will be assessed.

尼泊尔的数字服务税

尼泊尔对年交易额超过200万尼泊尔卢比(约15,500美元)的非居民(外国)数字服务提供商引入了2%的数字服务税(服务包括广告、数据存储服务、云服务、游戏、电子商务和其他类似服务)。非居民必须在越过交易门槛后30天内向尼泊尔税务机关申请登记,在线向办公室提交报税表,并在纳税年度结束后三个月内(7月中旬)缴纳税款。如果延期,将收取每年0.1%的年费和15%的利息。

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Nigeria

Highlights of Nigeria's 2023 Budget

President Muhammadu Buhari signed the 2023 Appropriation Bill into law on the 3rd of January, 2023. The 2023 budget is the final budget of President Muhammadu Buhari's administration. The budget has been termed "Budget of Fiscal Consolidation and Transition".

尼日利亚2023年预算概要

穆罕默杜·布哈里总统于2023年1月3日签署了2023年拨款法案成为法律。2023年预算是穆罕默杜·布哈里总统政府在任的最终预算。该预算被称为“财政整合和过渡预算”。

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Pakistan

Tax on Deemed Income from Immovable Property (Section 7E)

From tax year 2022 and onwards, tax has been levied under section 7E of the Income Tax Ordinance, 2001 at the rate of 20% on deemed rental income computed as 5% of the Fair Market Value of immovable properties situated in Pakistan. The fair market value is to be determined under section 68 of the Income Tax Ordinance, 2001. Whereas some immovable properties have been excluded from the calculation of deemed income under section 7E of the Ordinance.

来自不动产并视为租金收入的征税(第7E条)

从2022纳税年度起,根据2001年《所得税条例》第7E节的规定,对视为租金收入征收20%的税款,租金收入按巴基斯坦的不动产的公平市场价值的5%计算。公平市场价值将根据2001年《所得税条例》第68条订立。而根据该条例第7E节,一些不动产财产已被排除在本条例第7E条规定的认定收入计算范围之外。

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Saudi Arabia

Transfer pricing

Transfer pricing is defined as the pricing of transactions between related persons or persons under common control ("Controlled Transactions"). The importance of Transfer Pricing Bylaws lies in the necessity to implement and enforce the Arm's Length Principle on transactions between related persons or persons under common control as if they were conducted between independent persons.

It applies several methods in pricing transactions:

- 1- Independent price method
- 2- Resale price method
- 3- Total cost method plus profit margin
- 4- Net Profit Margin Method for Transaction
- 5- Profit division method

Many factors must be taken to choose between these methods, and the parties must submit the required documents from the Zakat, Tax, and Customs Authority.

转让定价

转让定价是指关联人之间或同一控制下的人之间的交易（“受控交易”）的定价。转让定价章程的重要性在于有必要对关联人或受共同控制的人之间的交易实施和执行独立交易原则，就好像它们是在独立人之间进行的一样。

它在定价交易中应用了几种方法：

- 1-独立定价法
- 2-转售价法
- 3-总成本法加利润率
- 4-交易净利润率法
- 5-利润分配法

在这些方法之间进行选择必须考虑许多因素，并且各方必须提交天课、税务和海关当局所需的文件。

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Singapore

Increase in GST rate and GST related crimes

Goods and Services Tax (GST) is a consumption tax levied on the import of goods and almost all supplies of goods and services in Singapore. A business must register for GST when the taxable turnover exceeds S\$1 million, with certain exceptions. The GST rate has been increased from 7% to 8% on 1 January 2023 and will be increased to 9% on 1 January 2024. The Inland Revenue of Authority of Singapore (IRAS) conducts regular audits to ensure tax compliance by individuals and businesses as there are cases of non-compliance and GST evasion.

提高消费税税率和与消费税有关的犯罪行为

商品和服务税是针对进口商品和在新加坡供应商品和服务征收的消费税。当应税营业额超过100万新元时，企业必须成为消费税注册公司，但有某些例外。消费税从2023年1月1日起从7%提高到8%，并将于2024年1月1日起提高到9%。因存在不合规和逃避消费税的情况，新加坡国内税务局定期进行审计以确保个人和企业遵循税务规定。

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Thailand

New Promotion Strategy in Thailand 2023 – 2027

Thailand's Board of Investment (BOI) has issued a new investment promotion strategy for the next five years (2023–2027) which effected in January 2023. Replacing the BOI's current eight-year scheme (2015–2022).

2023 - 2027年泰国推出新推广战略

泰国投资委员会(BOI)发布了未来五年(2023-2027)的新的投资推广策略，该策略于2023年1月生效，取代了BOI目前的八年计划(2015-2022)。

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National Insurance and the State Pension

Pensions are often in the press, but the UK State Pension and how it is earned is often overlooked and many UK/expatriates approaching State Pension age realise that they have not made sufficient contributions to be entitled to the full State Pension.

国民保险和国家养老金

养老金一词经常见诸媒体报道，但英国国家养老金及其获得方式却经常遭到忽视，许多接近领取国家养老年龄的英国国民/侨民意识到，他们此前缴款不足，因此没有资格全额领取国家养老金。

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Proof of Submission of Return (PSR) u/s 184A Finance Act 2022 (Bangladesh)

A major change has been made in requirement to furnish a proof of filing income tax return through section 184A in the Finance Act 2022. The section of law is titled as 'proof of submission of return (PSR) required in certain cases' which has been made mandatory for 38 kinds of services.

The proof of submission of return shall be furnished in the cases of –

- (i) applying for a loan exceeding Taka five lakh from a bank or a financial institution;
- (ii) becoming a director or a sponsor shareholder of a company;
- (iii) obtaining or continuing an import registration certificate or export registration certificate;
- (iv) obtaining or renewal of a trade license in the area of a city corporation or paurashava;
- (v) obtaining registration of co-operative society;
- (vi) obtaining or renewal of license or enlistment as a surveyor of general insurance;
- (vii) obtaining registration, by a resident, of the deed of transfer, power of attorney or selling of a land, building or an apartment;
- (viii) obtaining or maintaining a credit card;
- (ix) obtaining or continuing the membership of the professional body as a doctor, lawyer, CA, CMA, engineer, architect or surveyor or any other similar profession;
- (x) obtaining and retaining a license as a Marriage Registrar;
- (xi) obtaining or continuing the membership of any trade or professional body;
- (xii) obtaining or renewal of a drug license, a fire license, environment clearance certificate, BSTI licenses and clearance;
- (xiii) obtaining or continuing commercial and industrial connection of gas in any area and obtaining or continuing residential connection of gas in city corporation area;
- (xiv) obtaining or continuing a survey certificate of any water vessel;
- (xv) obtaining the permission or the renewal of permission for the manufacture of bricks;
- (xvi) obtaining the admission of a child or a dependent in an English medium school;
- (xvii) obtaining or continuing the connection of electricity in a city corporation or cantonment board;
- (xviii) obtaining or continuing the agency or the distributorship of a company;
- (xix) obtaining or continuing a license for arms;
- (xx) opening a letter of credit for the purpose of import;
- (xxi) opening postal savings accounts of Taka exceeding five lakhs;
- (xxii) opening and continuing bank accounts of any sorts with credit balance exceeding Taka ten lakhs;
- (xxiii) purchasing savings instruments (Sanchayapatra) of Taka exceeding five lakhs;
- (xxiv) participating in any election;
- (xxv) participating in a shared economic activities by providing motor vehicle, space, accommodation or any other assets.
- (xxvi) receiving any payment which is an income of the payee classifiable under the head "Salaries" by any person employed in the management or administrative function or in any supervisory position in the production function;
- (xxvii) receiving any payment which is an income of the payee classifiable under the head "Salaries" by an employee of the government and non-government organizations, if the employee, at any time in the income year, draws a basic salary of taka sixteen thousand or more;
- (xxviii) receiving any commission, fee or other sum in relation to money transfer through mobile banking or other electronic means or in relation to the recharge of mobile phone account;
- (xxix) receiving any payment by a resident from a company on account of any advisory or consultancy service, catering service, event management service, supply of manpower or providing security service;
- (xxx) receiving any amount from the Government under the Monthly Payment Order (MPO) if the amount of payment exceeds taka sixteen thousand per month by any educational institute;
- (xxxi) registration or renewal of agency certificate of an insurance company;

- (xxxii) registration, change of ownership or renewal of fitness of a motor vehicle of any types excluding two and three wheeler;
- (xxxiii) releasing overseas grants to a non-government organization registered with NGO Affairs Bureau or to a Micro Credit Organization having license with Micro Credit Regulatory Authority;
- (xxxiv) selling of any goods or services by any digital platforms to consumers in Bangladesh;
- (xxxv) submitting application for the membership of a club registered under the Companies Act, 1994 and Societies Registration Act, 1860;
- (xxxvi) submitting tender documents by a resident for the purpose of supply of goods, execution of a contract or rendering a service;
- (xxxvii) submitting a bill of entry for import into or export from Bangladesh;
- (xxxviii) submitting plan for construction of building for the purpose of obtaining approval from concerned authority. 🇧🇩

Reference/Citation:

Finance Act 2022; Income Tax Ordinance, 1984 (Bangladesh)

Brazil



A New Foreign Exchange Mark in Brazil

Since the Getúlio Vargas Government (1933), it was only in late 2022 that several resolutions of the Brazilian Monetary Board (CMN) and the Brazilian Central Bank (BACEN) were updated containing the new norms on foreign exchange and international capital (foreign capital in Brazil and Brazilian capital abroad), so as to regulate Act No. 14.286/2021, which corresponds to the New Foreign Exchange Mark in Brazil.

Being the biggest changes since 1933, some of these changes are of special interest in their tax effects. Perhaps the most impacting is BACEN Resolution No. 277, of December 31st, 2022, which regulated the foreign exchange market and the remittance and inflow of funds into the country.

Companies based in Brazil face a considerable challenge when making remittances abroad, mainly for remunerating services, software, and reimbursement for group companies. The challenge is due to the complex taxation on the operations, which, depending on the nature and basis, may range from 15% to more than 50% (with Withholding Income Tax at Source (IRRF), Social Integration Program (PIS/Cofins), City

Services Tax (ISS), Contribution of Intervention in the Economic Domain (Cide), and Tax on Financial Transactions (IOF)).

In addition to the complexity of qualifying the operation for tax purposes, that is, correctly interpreting the tax legislation, the documents/nature of the transaction, and defining how to pay the taxes, Brazilian taxpayers shall often combine this with the exegesis given to the transaction by the financial institutions authorized to operate in the exchange market, which actually carry out the remittance. In practice, this situation becomes even worse with an extense list of exchange codes that often does not match the nature of the transactions.

Effectively, BACEN Resolution No. 277/22 introduced four important changes that may mitigate some of these problems: (a) the classification of the transaction, which becomes a responsibility of the client (i.e. the company that hires the financial institution to perform the remittance); (b) the provision that it shall be the financial institution's responsibility to evaluate which information and supporting documents it should request or dispense with; (c) a smaller range of codes for classifying transactions; and (d) more precise explanatory notes on the use of the codes.

As a result, the bureaucracy and slowness experienced by companies today has been reduced. These changes provide the client with the right to choose the classification according to his or her own interpretation of the nature of the remittance (rather than simply being obliged to accept the classification made by the financial institution) and generate a greater number of framing opportunities, due to the new codes.

However, Act No. 14.286/2021 maintained the provision stating that remittances to abroad for profits, dividends, interest, amortization, royalties, scientific technical and administrative assistance and the like shall depend on proof of payment of the Withholding Income Tax (IRF). By upholding this provision, the solidary tax liability of the financial institutions authorized to operate in the exchange market remains.

This tax liability rule encourages exchange operators to maintain interpretations that are often excessively conservative when classifying remittances, seeking categories with higher tax payments, even when this goes against the real nature of the transaction.

This is currently the case with "shared services"; apportions and reimbursements, which should not be taxed, but are commonly classified as taxed services.

Similarly, remittances for software licenses, especially with software applications as a service (reimbursements are given their own code in the new classification) are also misclassified as remittances for services.

Returning capital stock to non-residents is often interpreted as "income" and is subject to Withholding Tax at Source (IRF).

Act No. 14.286/2021 indirectly amended some norms concerning IRPJ/CSLL tax deductibility of royalties paid for the use of invention patents, manufacturing processes and formulas, for the use of trademarks (industrial or commercial), and payments for technical assistance, by no longer requiring that the aforementioned contracts be registered before the Brazilian Central Bank (BACEN).

Under the previous system, such payments, when made to companies abroad that have direct or indirect control of the Brazilian company, had to be registered before the Brazilian Patent and Trademark Office (INPI) and Brazilian Central Bank (BACEN). Now, without the need for registration before the Brazilian Central Bank (BACEN), registering before the Brazilian Patent and Trademark Office (INPI) is sufficient for tax deductibility.

Along the same lines, due to the change in the wording of article 9 and the repeal of articles 10 and 11 of Act No. 4.131/1962 by Act No. 14.286/2021, the aforementioned royalties other than those paid to group companies, which previously had their tax deductibility dependent on the registration before the Central Bank of Brazil (BACEN), are now fully deductible without the need for registration, despite the absence of express repeal of article 71, sole paragraph, item "f", item 1 and item "g", item 1 of Act No. 4.506/1964.

Innovations of this Act are, for example: the possibility of having accounts in Brazil with foreign currency and the end of the requirement for simultaneous foreign exchange transactions for merely regulatory purposes.

The trend is that in 2023 such regulations shall come into practice, and thus there shall be an optimization of the current Brazilian exchange rate system, which until recently was still marked by the undemocratic spirit of the 1933 era. 🇧🇷

Reference/Citation

Based on the content of the referred legislation – Central Bank resolutions

Cyprus



Updated Cyprus Tax Incentives for first employment in Cyprus

On 26 July 2022, the House of Representatives in Cyprus voted amendments (under Article 8(23A) of tax regulations and incentives for the first employment income under certain conditions.

On 1 November 2022, the Tax Department has issued clarifications (circular no. 10/2022) on Articles 8(21A) and 8(23A).

The Circular focuses on the following clarifications:

- First employment
- Remuneration from the first employment
- Tax resident
- Which specific article is applied 8(21), or 8(21A), or 8(23) or 8(23A)
- Related parties of the individual

The 50% exemption under the Article 8(23A) of the Income Tax Law

In order to meet the 50% exemption, the first employment must be commenced from or after 1 January 2022 and the following major conditions must be affected under specific regulations:

- The individual has not been a Cyprus tax resident for at least 10 consecutive years prior of its first employment in Cyprus.
- The annual remuneration from the employment in Cyprus exceeds the amount of €55.000. Individuals who can't meet the tax exemption for the 50%, can be eligible to claim a 20% tax exemption.

In addition to the above conditions, an exemption under the Article 8(23A) can also be granted in the following provisions:

- Individuals who previously claimed the exemption under the old rules of Article 8(23A) and had continuous employment in Cyprus from the year of commencement of employment until the tax year 2021, or
- Individuals who commenced first employment in Cyprus between the years 2016 to 2021 with remuneration exceeding the amount of €55.000 per year, or
- Individuals who commenced first employment in Cyprus between the years 2016 to 2021 with remuneration not exceeding the amount of €55.000 per year and within 6 months from the date of the publication of the amendment legislation on 26 July 2022, the annual remuneration exceeded the threshold of €55.000. 🇧🇷

Reference/Citation

Based on the following articles/circulars of the new tax legislation –

- Article 8(23A)
- Circular 10/2022 on Articles 8(21A) and 8(23A).

Greece



Strong economic momentum in 2023

Infrastructure projects play an important role in a country's economy. The Ministry of Infrastructure and Transport is expected to announce new agreements for projects such as the northern road axis of Crete, the extension of the Thessaloniki ring road and the new metro lines in Athens and Thessaloniki. In addition to the contracts for new infrastructure projects amounting to 2 billion euros, the delivery of a large part of the projects that have started is also expected. Parts of the Hellinikon park, which is the largest urban regeneration in Europe, are already being delivered. Such projects are expected to create thousands of jobs, boost trade, attract investment and help grow tourism which is a key pillar of revenue and growth.

In the area of inflation now despite the continued de-escalation due to the temporary weather-related drop in energy prices, consumer-perceived real price inflation is becoming even more unsustainable. This is because the decline expected to continue into the first quarter of 2023 is accounted for by the fact that the new prices are compared to the already increased ones of late 2021 and early 2022. In order to relieve households from rising prices, the government staff decided to extend the validity of the support measures and introduced some new ones. In particular, the subsidy continues on household electricity bills depending on the price of the kilowatt hour, subsidizing heating oil at gas stations with the aim of reducing the price and the amount of the household heating allowance was doubled. A new measure that will come into effect in February is the granting of an allowance for purchases from the supermarket. The amount will be calculated according to the family situation of each person.

All of the government's relief measures depend on the fiscal margin that exists. The big goal for Greece is fiscal stability as the management so far has brought us 2 levels below the investment level of the rating agencies. It is now possible in 2023 to recover the positive assessment of the investment grade after several years of financial crisis and pandemic. When this goal is achieved, it will mean cheaper borrowing, the reduction of the debt-to-GDP ratio, the attraction of strategic investments and the return of the Greek economy to stable bases. 🇬🇷

Reference/Citation

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India



GST on Secondment in India

Several Multi-National Enterprises (MNEs) operating in India second their employees to their Indian arm for purposes ranging from providing them with several technical expertise to training to maintain a check from Indian operations.

In the context of such secondments, a question arises as to whether the seconded employees become employees of the Indian subsidiary or group company. This poses several tax issues in India for these seconded expatriates on personal tax issues and for the MNEs under the Corporate taxes. The latest complexity to this already vexed topic is the charge under the Goods and Services Tax brought in by the recent judgment of the Hon'ble Supreme Court of India.

Under the erstwhile Service tax law (before the introduction of Goods and Services Tax in 2017), in the matter of Northern Operating Systems (P.) Ltd, the Hon'ble Supreme Court addressed the taxability of secondment contracts to examine if such secondments had the effect of a contract of service or contract for service under the Service Tax. To determine the taxability, the Court evaluated the following:

Test of 'Control'

The mere test of control is insufficient to accurately determine the existence of an employer-employee relationship. In the case of seconded employees, their terms of employment continued to align with the policies of the foreign entity/overseas employer. Upon the completion of their secondment, these employees returned to their original employers, which is the overseas entity that had only temporarily "loaned their services."

Reimbursement of employer for the salary paid to seconded employee

The Court observed that the seconded employees were carrying out activities related to the Indian company, not the foreign entity, during their secondment period. Although the foreign entity was responsible for paying the salaries of the seconded employees, the Indian company was liable to reimburse those salaries, as the seconded employees were not performing any tasks related to the foreign entity's business during their secondment. It was a legal requirement for the seconded employees to remain on the payroll of the overseas employer, as they were entitled to social security benefits in their country of origin.

Applying the principle of substance over form, the

Court determined that employees working under a secondment arrangement cannot be considered actual employees of the Indian company. Instead, the foreign entity that seconded the employees continues to qualify as their employer. The arrangement between the two entities is deemed to be in the nature of “manpower recruitment or supply agency service,” which the foreign entity provides to the Indian entity. As a result, this service is subject to Service Tax. It is worth noting that the judgment has an impact under the current GST regime as well and hence the secondment shall be subject to GST on Reverse Charge basis in the hands of the Indian entity. Hence, all multinational corporations seconding their employees to their Indian arm are reviewing their agreements/arrangements to determine the applicability of GST. However, the way these arrangements usually work, GST would typically apply. 🇮🇳

Reference/Citation

Case Name: C.C., C.E. & S.T. - Bangalore (Adjudication) Etc. v. M/s. Northern Operating Systems Pvt. Ltd. [2022-VIL-31-SC-ST]

Italy



Italian 2023 Budget Law

Limited deduction of costs incurred with black-listed jurisdictions

The Budget Law contains a provision that limits the deduction of expenses and other negative components arising from transactions carried out with enterprises resident or located in non-cooperative jurisdictions for tax purposes. Such limit is represented by the so-called “normal value” of the relevant goods and services traded. It states that any cost in excess of the “normal value” should be disallowed.

The conditions for cost deductibility – Full deduction should, in any case, be recognized for Italian companies providing evidence that the relevant transactions respond to a real economic interest and that they have been concretely executed.

CFC regulation remains outside the novelty - Such limitation should not apply to transactions with subsidiaries qualifying under the Italian provision on Controlled Foreign Corporations.

Transition tax on undistributed profits from low-tax subsidiaries

The Law contains a provision allowing for a voluntary one-off reduced tax on undistributed earnings of

foreign subsidiaries subject to low-tax regimes.

The new rule provides for a 9% transition tax (30% for individual entrepreneurs) computed on qualifying undistributed earnings. The payment of such tax makes the relevant earnings be treated as if they had been repatriated (i.e., they will not be taxed upon actual collection). Once a distribution occurs, an ordering rule applies according to which earnings that were subject to the transition tax are deemed to be received first.

The 9% transition tax (and the 30% for individuals) also allows taxpayers to step-up their basis in the relevant participation up to the limit of any sales price by an amount equal to the earnings on which the transition tax was paid. Accordingly, the basis will be reduced to the extent the proceeds are distributed.

As an alternative to the mentioned 9% tax, companies with control shareholdings may avail of a further reduced 6% transition tax under several conditions. Either the 9% (or 30% for qualifying individuals) and the 6% transition tax elections should be available only with reference to qualifying earnings.

Step-up of Italian participations held by non-resident entities

The Law revamps a special one-off opportunity for nonresident entities to elect a tax step up of participations in Italian companies held at least from 1 January 2023 through the payment of a 16% substitute tax. The step-up may also be achieved with reference to qualifying Italian land and is now extended to Italian shares traded on regulated markets or multilateral trading systems.

The basis of the 16% substitute tax is represented by the value of the participations (or land) as of 1 January 2023. The relevant basis needs to be certified by a sworn appraisal prepared not later than 15 November 2023, an exception is made for shares traded on regulated markets or multilateral trading systems for which the relevant basis is equal to the average value of the last month before the sale.

Permanent establishment exemption for investment management activities

The 2023 Budget contains the investment management exemption, a provision according to which the activities of the managers do not give rise to a permanent establishment provided certain conditions are met.

The asset manager is defined as the person who, in the name and/or on behalf of a foreign investment vehicle (or of its direct or indirect subsidiaries), habitually concludes contracts and /or negotiations, or in any case assists, also through preliminary activities, for the purchase and/or sale of financial instruments, even if availing of a discretionary power. The asset manager,

either an Italian resident or a nonresident entity operating through an Italian PE, is not considered a “dependent agent” provided certain conditions are met.

One-off energy windfall tax

The Law contains an extraordinary new levy, only for the year 2023 applying to entities that derived at least 75% of the fiscal year 2022 revenues from any of the following activities: production, import, sale of electricity, natural gas, and oil products.

The levy applies at a rate of 50% on the portion of the corporate income computed for fiscal year 2022 that exceeds by at least 10% the average income for the four years prior to 2022. The special contribution cannot in any case exceed 25% of the value of the shareholders’ equity on 31 December 2021 (in the case of calendar-year entities). 🇮🇹

Reference/ Citation

Il Sole 24 Ore

Malaysia



Budget 2023 Retabled On 24 February 2023

Some major highlights from tax perspective are as follows:

- Introduction of global minimum effective tax rate under Pillar 2 of the BEPS Action Plan 1 Tax Challenges Arising from Digitalisation and implementation of the Qualified Domestic Minimum Top-up Tax
- Restructuring of investment incentives
- Introduction of capital gains tax on disposal of unlisted shares by companies with effect from year 2024
- Introduction of luxury goods tax in year 2023
- Incentive for relocation to Malaysia is extended until 2024 and expanded to include Electrical and Electronics sector
- Flat rate of 15% for 5 consecutive years applicable to non-citizen individuals who are resident in Malaysia and hold a key position in Malaysian companies which relocate their overseas operation into Malaysia is extended until 2024 and expanded to include Electrical and Electronics sector
- Tax rate for Micro, Small and Medium Enterprises (“MSMEs”) on first chargeable income of RM150,000 be reduced from 17% to 15% effective from Year of Assessment (“YA”) 2023

- Review of resident individual income tax rates with effect from YA 2023
 - Each of the chargeable income bands from RM35,001 to RM100,000 be reduced by 2%
 - Each of the chargeable income bands from RM100,001 to RM1,000,000 is increased by 0.5% to 2%
- Reintroduction of Special Voluntary Disclosure Program (“SVDP”) from 1 June 2023 to 31 May 2024

“An incredible amount of strength and energy are needed to ensure the MADANI Development agenda is successful. Leaders can no longer be comfortable continuing the wrong practices. A major shift is a must. A shift towards a norm of fighting corruption that has denied the people a meaningful life, towards good governance that reflects a principle in spending that leads to the empowerment and socioeconomic mobility for all layers of the people”, quoted by Prime Minister and Finance Minister of Malaysia.

Budget 2023 focus on driving economy recovery, strengthening public trust and upholding integrity. Let us embrace 2023 looking forward to a strong and successful year! 🇲🇾

Reference/ Citation

Official Portal of Ministry of Finance Malaysia

www.mof.gov.my

Nepal



Digital Service Tax in Nepal

Digital technologies have revolutionized how businesses conduct their operations and altered how a business interacts with partners and customers through internal process transformation and opportunity creation. International Tax Practices formulated for the traditional brick-and-mortar economy fail to address the tax challenges of the digital economy.

India began implementing an equalization levy in 2016 at a rate of 6% of the amount of advertising payment to non-residents. In 2020, it expanded in scope while dropping its rate to 2%. France has also introduced a Digital Service Tax or ST of 3% on the portion of income related to France after the application of the “French Digital Presence” ratio.

Nepal introduced a 2% digital service tax that will be charged on services provided over the internet to Nepali consumers by non-resident persons (Foreign Digital Service Providers) through the Annual Finance Act 2079

(2022 AD) in case the annual turnover crosses the threshold of Rs 2 million (approximately USD 15,500).

“Digital service” includes following services whose delivery essentially requires information technology and provided automatically through internet with minimal human intervention: -

- Advertisement,
- Data storage service,
- Cloud service,
- Gaming,
- E-Commerce,
- Service related to mobile application,
- Sales of data collected from resident persons of Nepal,
- Download of data, images and similar services,
- Education, consultancy, skill development and training service,
- Movies, television, music, and other similar subscription-based services,
- Other Similar Services

When any of the following conditions are fulfilled, digital services is deemed to be provided in Nepal:

- Service is received within Nepal,
- Billing address of services is in Nepal,
- Payment is made through bank accounts or a payment instrument operated by Nepali institution or entity that has a license to do business there,
- Payment is made via digital payment instrument issued by banks or licensed payment provider institution or entity of Nepal,
- Service is received via internet protocol address in Nepal,
- Service is received via SIM card having country code of Nepal or landline of Nepal

As per the Act, a taxable person must submit an application to the Nepalese Tax Authorities for a permanent account number (a unique 9-digit identification number) within thirty days after the date on which the transaction threshold is exceeded. However, non-residents may submit an application at any time to get a permanent account number in the case of voluntary registration.

Non-resident person shall file return to the office through online within 3 months of the completion of income year(mid-July). In case tax return is not filed within the time limit, fee of 0.1 percent per year shall be charged.

Tax shall be paid within three months after the completion of income year (mid-July). In case, failure to pay tax within the stipulated time limit, interest of fifteen percent annually shall be charged.

The Nepalese Tax Authority has made an encouraging move toward taxing the pervasive digital economy, which is anticipated to boost the nation’s revenue collection. However, as a unilateral taxation measure, the 2% DST has economic and geopolitical challenges that need to be addressed for its successful implementation. 🇳🇵

Reference/ Citation

<https://ird.gov.np/>

Nigeria



Highlights of Nigeria’s 2023 Budget

Key highlights of Nigeria’s 2023 Budget

- The 2023 budget expenditure of 21.83 trillion Naira is the greatest in the history of Nigeria and this will be financed by N9.73 trillion in anticipated revenue. The nation’s highest-ever deficit of N10.78 trillion (4.78% of anticipated GDP) would be paid for by additional borrowings, earnings from privatizations, and the withdrawal of loans that were previously acquired for certain projects.
- The budget deficit is nearly 11% greater than the 9.73 trillion Naira in anticipated revenue. For Nigeria to be able to fulfil its expenditure demands without any form of borrowing, it would need to earn an additional 111% of its current revenue, or more than twice as much.
- Non-debt recurrent expenditures (NDRE) are 8.27 trillion Naira, which is 16% more than the 2022 revised budget of 7.11 trillion Naira, and still the budget’s largest item (approximately 40%). It contains personnel cost of 4.99 trillion Naira, which accounts for 60.33% of non-debt recurrent expenditures (NDRE).
- They estimated 6.31 trillion Naira is the second largest debt service expenditure increased by 71% from 2022. It accounts for 31% of the anticipated budgetary spending for 2023. The skyrocketing increase in debt payment shows that the estimated deficit for 2022 may be greater than expected, necessitating new borrowings in addition to rising interest rates.
- A quarter of the 2023 budget’s spending will go

toward capital projects, which will cost 4.93 trillion Naira (excluding the statutory transfer component). This is a decrease of 8.88% from 2022.

- The predicted revenue for 2023, 9.7 trillion Naira, is 2.4% less than the projected revenue for 2022, 9.9 trillion Naira.

Lingering fears

In Nigeria, the first and second quarters of 2023 will be dominated by elections and political transitions. This may have the effect of disrupting economic activities and fuelling uncertainties, especially among domestic and foreign investors. The economy may therefore fall short of the 3.5% growth rate assumed in the budget parameters, which would subsequently result in lower revenues and additional borrowings.

Nigeria's overall debt to GDP ratio of about 37% is sustainable. However, the new round of budgeted borrowing sends the wrong signal to domestic and foreign investors. Deficits and debts imply that taxes will be raised in the future to pay for debts, making investments less profitable. It may also prompt nervous investors to move their capital to more fiscally stable countries.

There are also fears that unrestrained borrowing could tilt the country's debt portfolio into the realm of unsustainability, which may then lead to defaults in debt repayments and a steep decline in new loans. Government obligations to contractors and other investors would be jeopardised. 🇳🇮

Reference/ Citation

www.africanews.com/2023/01/04/nigerian-president-muhammadu-buhari-has-signed-the-2183-trillion-2023-budget/

Pakistan



Tax on Deemed Income from Immovable Property (Section 7E)

A Capital Value Tax on assets in the name of deemed income from Immovable Property has been levied. This tax is applicable from tax year 2022 and onwards on a resident person owning capital assets. The deemed income, for the purpose of this section, shall be computed as 5% of the Fair Market Value (as determined by the FBR under section 68) of capital assets situated in Pakistan. The rate of tax on such income shall be 20%. This is equivalent to an effective tax at 1% of Fair Market Value of capital assets.

The Capital Assets as defined under this section

translates to immovable property. As such this tax is levied on immovable property situated in Pakistan and owned by resident persons.

Exclusion

It is important to mention that an exclusion list is provided which this section does not apply. The exclusion list is as follows:

1. One capital asset owned by the resident person.
2. Self-owned business premises from where the business is carried out by the persons appearing on the active taxpayer's list at any time during the year.
3. Self-owned agriculture land where agriculture activity is carried out by the person but excluding farmhouse and annexed land. Farmhouse has been defined in this section.
4. **Capital asset allotted to:**
 - a. Martyred (Shaheed) or dependents of a Martyred (Shaheed) belonging to Pakistan Armed Forces,
 - b. A person or dependents of a person who dies while in the service of Pakistan armed forces or federal or provincial government,
 - c. A war wounded person while in service of Pakistan armed forces or federal or provincial government,
 - d. An ex-serviceman and serving personnel of armed forces or ex-employees or serving personnel of federal and provincial governments who are original allottees of the capital asset as duly certified by the allotment authority,
5. Any property from which income is chargeable to tax under the Ordinance and tax leviable has been paid.
6. Capital asset in the first year of acquisition on which tax under section 236K has been paid.
7. Where fair market value of the capital assets in aggregate excluding capital assets mentioned in serial no (1) to (6) above does not exceed PKR 25 million.
8. Capital assets which are owned by a provincial government or local government.
9. Capital assets owned by local authority, a development authority, builders and developers for land development and construction subject to the condition that such persons are registered with Directorate General of Designated Non-Financial Businesses and Professions.

"Farmhouse" means a house constructed on a total minimum area of 2000 square yards with a minimum covered area of 5000 square feet used as a single

dwelling unit with or without an annex: Provided that where there are more than one dwelling units in a compound and the average area of the compound is more than 2000 square yards for a dwelling unit, each one of such dwelling units shall be treated as a separate farmhouse. 🇸🇦

Reference/ Citation

Circular No. 15 of 2022-23 (Income Tax and CVT) issued on 21st July 2022.

Saudi Arabia



Transfer pricing

Transfer pricing is defined as the pricing of transactions between related persons or persons under common control ("Controlled Transactions"). The importance of Transfer Pricing Bylaws lies in the necessity to implement and enforce the Arm's Length Principle on transactions between related persons or persons under common control as if they were conducted between independent persons.

Transfer pricing framework

1. Scope

Transfer pricing instructions apply to:

- Persons who are considered to be taxable in accordance with the income tax system in the Kingdom. This relates only to legal persons, and also to permanent establishments.
- Companies subject to both income and zakat tax (Joint Enterprises) to the extent that such companies are subject to income tax.

Transfer pricing instructions do not apply to:

A person subject to a Zakat (and not subject to income tax in the Kingdom). Despite this, the persons concerned shall, under article 18 of the instruction, fulfil the obligations stipulated therein. (Any person concerned with submission of a State's own report and compliance with the obligations set out in article 18 of the Transfer Pricing Instruction.

2. Transfer Pricing Methods

- Comparable Uncontrolled Price Method: A comparison is made between the price quoted for the property or services transferred in a transaction between related persons with the price charged for the property or services transferred in a similar independent transaction, under similar conditions. The comparable

uncontrolled pricing method is preferred over other transaction pricing methods.

- Resale Price Method: A comparison is made between the resale margin achieved by the purchaser of the property in a transaction between related persons from the resale of this property in an comparable uncontrolled transaction with the margin achieved in similar transactions and resale between independent persons, and this method aims to evaluate the amount calculated in a transaction between people linked by the neutral price method with gross profit margin achieved in comparable uncontrolled transactions.
- CostPlusMethod: A comparison is made between the profit margin of costs incurred directly and indirectly in the supply of property and services under a transaction between persons related to the profit margin of costs incurred directly or indirectly in the supply of property or the provision of services under a separate and similar transaction. This method is used for application when partially manufactured goods are sold between associated parties, and when factory agreements, common facilities or long-term supplies are concluded between associated parties.
- Transactional Net Margin Method: A comparison is made between the net profit margin relative to an appropriate that a Person achieves in a Controlled Transaction with the net profit margin relative to the same base achieved in comparable Uncontrolled Transactions.
- Transactional Profit Split Method: A method of calculating the total profits of persons associated with one or more transactions between persons associated on economic grounds, so that it is possible to estimate the distribution method of the profits of the transaction expected to be realized if the same transaction takes place between independent persons, which is in line with the Arm's Length Principle. The applicable transaction pricing method should be the most appropriate way to apply to the transaction that results in the most accurate and appropriate neutral price under the facts and circumstances of the transaction.

3. Selection

Many of the operational factors shall be taken into account when applying the methods of pricing the above-described approved transactions, where certain margins are used for similar independent persons as indicators of the impartiality of

transaction prices. It may be considered that if a person associated with the same margins achieves his or her transactions with those associated, the prices of such transactions shall conform to the Arm's Length Principle.

4. Documentation

Taxpayers shall provide transaction pricing documents that prove that transactions between related persons fulfill the following Arm's Length Principle:

General Documents: General documents relating to Taxpayers persons who are parties to the intercommunal transaction are available (whether the transaction is in the same State or between several States).


Main File: The main file should include an overview of the international business of the multinational group of companies, the group's transaction pricing policy and functions, and the economic characteristics of the related persons.

Local File: The local file shall include details of transactions between associated persons and the taxable person in the Kingdom that are supplementary and attached to the main file.

5. Application

Transactions between related persons are included in their commercial accounts based on the accounting rules in force in the Kingdom. Accordingly, the transactions are entered into the accounting systems of the related persons, where the information is used when preparing certain records such as the statement of financial position (balance sheet) and the statement of profits and losses. Records are kept for accounting purposes, and financial statements may reflect the extent to which the prices of transactions between related persons comply with the Arm's Length Principle, and therefore whether adjustments are required. It shall be ascertained that transactions between persons associated with the Arm's Length Principle are periodically completed, so as to avoid the inclusion of the non-contingent transactions of the principle in commercial accounts. The multinational group usually prepares budgets at the beginning of its financial year, and transaction prices between associated persons are determined in accordance with its transaction pricing policy. In the Commission's view, it is necessary to review the costly results in order to ascertain their compatibility with the Arm's Length Principle.

The method of transaction pricing and documentation is a government method to control any manipulation that multinational corporations

can make to reduce net profit in one country and increase it in another country to pay less taxes. Also, the subsidiaries in the Kingdom of Saudi Arabia are prevented from being pressured by the parent companies to reduce their prices and achieve lower revenues due to wrong pricing, and this is done using the Arm's Length Principle (ALP). 

Reference/ Citation

https://zatca.gov.sa/en/HelpCenter/guidelines/Documents/Transfer%20Pricing%20Guidelines_Final_Manual.pdf



Increase in GST rate and GST related crimes

Goods and Services Tax (GST) is a consumption tax imposed on imported goods and almost all supplies of goods and services in Singapore. A business must register for GST when the taxable turnover exceeds S\$1 million, with certain exceptions. Singapore's GST rate has remained at 7% since 1 July 2007. It will be progressively increased from 7% to 8% on 1 January 2023 and to 9% on 1 January 2024. Introducing the GST rate hike progressively over 2 years helps to manage concerns over the rising costs of living and inflation.

With the increase in GST rate, the Government recognises that businesses may, at the same time, adjust prices to reflect the increase in operating costs such as wages, utilities, rental and materials in their supplies. While the Government does not regulate the pricing decisions of individual businesses, it does expect businesses to be transparent in their pricing to consumers and not use the GST increase as a cover for any increase in prices beyond the GST rate change. The Government has been working with industry stakeholders to raise awareness on price transparency and facilitate price comparisons.

The Inland Revenue Authority of Singapore (IRAS) conducts regular audits to ensure that the correct GST rate is applied and that GST-registered businesses display GST-inclusive prices. IRAS also runs regular audit programmes across various industries to ensure tax compliance by individuals and businesses. However, there are still business and individuals who have been found guilty of non-compliance and tax evasion for GST.

Below is a summary of 3 GST cases reported in 2022.

1. Couple Convicted for Multiple Tax Evasions

Mr Lim Meng Fatt and Ms Gan Bee Bee have been convicted by the Court for Income Tax and GST

evasion. For their GST offence, they have fraudulently de-registered their company from GST even though the company was still liable to be GST-registered. The total GST evaded amounted to S\$163,206. They have also omitted output tax amounting to S\$84,304 in the company's GST return. For these two offences, the Court sentenced Mr Lim to 16 months' imprisonment and Ms Gan to 17 months' imprisonment and penalties totalling S\$1,485,068.

2. Sole-Proprietor Convicted for Evading GST and Income Tax and Failing to Keep Proper Records

Mr Khoo Chin Huat, a sole-proprietor, was found guilty of poor record keeping and arbitrarily adjusting his GST payable figures downwards from 2012 to 2016. The adjusted sales and purchase reported in his GST Returns were used to report for income tax for the relevant Years of Assessment. Despite a self-review request initiated by IRAS in 2017, Mr Khoo continued to submit incorrect information to IRAS. He also failed to keep and retain tax invoices received by him for his business from its suppliers and vendors as required under the GST Act and the Income Tax Act.

Mr Khoo has been sentenced by the Court to 54 weeks' imprisonment and ordered to pay fines and penalties amounting to S\$1,784,451 after being convicted for the wilful intent for GST evasion, Income Tax evasion and failure to keep proper business record.

3. Night Club Operator Convicted for GST Evasion and Money Laundering

Mr Soon Kok Khoon, a night-club operator, was found guilty of GST evasion involving S\$210,287 of tax undercharged. He made false entries in his clubs' GST returns, omitted sales revenue of his clubs which resulted in GST undercharged and diverted the sales revenue from the sales of flower garlands from his clubs (which were GST-registered) to two other shell companies (which were not GST-registered and had no actual business activities) using separate point-of-sale terminals linked to them. The undeclared revenue from the sales of the flower garlands from the clubs was recorded as proceeds from fictitious sales of souvenirs in the accounts of the shell companies. He then understated the fictitious sales of souvenirs in the accounting books in these shell companies to avoid hitting the GST registration threshold for each company.

For the above offences, Mr Khoo was sentenced to 34 weeks' imprisonment and ordered to pay a penalty amounting to S\$630,861, which is three times the GST amount he evaded. 🇹🇵

Reference/ Citation

<https://www.iras.gov.sg>

Thailand



New Promotion Strategy in Thailand 2023 – 2027

Thailand's Board of Investment (BOI) has issued a new investment promotion strategy for the next five years (2023–2027) which effected in January 2023. Replacing the BOI's current eight-year scheme (2015–2022).

To be eligible for a **BOI Thailand** promotion, your business has to fall within either of these categories:

- Section 1: Agriculture and Agricultural Products;
- Section 2: Mining, Ceramics and Basic Metals;
- Section 3: Light Industry;
- Section 4: Metal Products, Machinery, and Transport Equipment;
- Section 5: Electronic Industry and Electric Appliances;
- Section 6: Chemicals, Paper, and Plastics;
- Section 7: Services and Public Utilities; and
- Section 8: Technology and Innovation Development.

There are many incentives for companies that are granted to BOI companies.

1. Some BOI companies are exempted from corporate income tax for up to eight years.
2. Some BOI companies are also provided a 50% reduction of the normal corporate income tax rate for up to 5 years after the period of tax exemption.
3. A BOI company can carry losses forward to the period of when they are required to pay taxes.
4. Any dividends distributed during the income tax period are also exempt from income tax.
5. There are tariff exemptions or reductions on the important of new machinery or raw materials.
6. Work permits are provided for the foreign national owners and BOI companies may also bring skilled foreign workers and experts to work.
7. Some BOI companies can own land for the purpose of their business operation.
8. BOI companies can also take out or bring money into Thailand using a foreign currency.

Foreign Employees

In general, Foreigners who intend to work in the Kingdom of Thailand have to deal with the Thai Visa

regulations and applicable work permit requirements. The relevant visa which needs to be presented upon entering the country for work purposes is the so-called Non-Immigrant-B visa. Other visa categories apply for the employee's family members. Some visa exceptions apply for specific groups, e.g. members of the diplomatic corps. Generally, a foreigner working in Thailand must obtain a work permit before commencing work. Work permits, which have been approved by the labor offices, may be issued as a one year work permit and extended over the period stipulated in the applicant's Non-Immigrant visa. The Labor Department will in principle grant an initial duration of one year for the work permit which is subject to subsequent renewal. Some types of work permits could be approved for the duration of two years such as a work permit for Representative offices, companies with registered capital exceeding 30 million Thai baht, as well as work permits for BOI-promoted companies.

As a part of new promotion strategy, the new adjustment of requirement for the application of Thailand Long-Term-Resident visas has been announced since September 1, 2022. There are many periods of Long-Term-Resident visas which includes the period granted under BOI-promoted companies. Foreigners also can submit the application and provide supporting evidence to Thailand BOI. 🇹🇭

Reference/ Citation

1. BOI Guide 2023 -2027 (Thai Version available only)
2. Investment Promotion Guide 2022, Thailand Board of Investment
3. Getting to know BOI, Thailand Board of Investment
4. Investment Promotion Act B.E. 2520.
5. <https://www.eeco.or.th/en/business-opportunities>

UK



National Insurance and the State Pension

With the cost of living crisis at the moment it is even more important to check that our clients are on course to get their full State Pension entitlement. However, a lot of UK residents/expatriates don't realise that to be entitled to the full State Pension when they reach State retirement age they need a minimum of 35 qualifying years. The minimum number of qualifying years to receive a proportion (35/10) of the State Pension is 10. To be entitled to a qualifying year, earnings from employment must reach the 'Lower Earnings Limit' (LEL). This figure varies year on year and in 2022/23 is £6,396. Earnings at this level will not incur Class 1

National Insurance charges by either employee or employer but will entitle them to a qualifying year. It is imperative that these earnings are reported via payroll to be recorded by the Revenue and added to National Insurance records. National Insurance records can be accessed by creating an online PTA (personal tax account) via the Government Gateway or by completing the following form <https://www.tax.service.gov.uk/shortforms/form/NISatement>

UK residents/expatriates may be able to pay voluntary contributions to fill any gaps if they are eligible. They can usually only pay for gaps in their National Insurance record from the past 6 years, but may be able to pay for gaps of more than 6 years depending on their age. If they're a man born after 5 April 1951 or a woman born after 5 April 1953 they have until 5 April (change to 31 July) 2023 to pay voluntary contributions to make up for gaps between the tax years April 2006 and April 2016. After 5 April (change to 31 July) 2023 this will revert to the past 6 years only. Voluntary National Insurance contributions are currently £15.85 per week. Any payment for gaps in prior years are chargeable at the rate applicable to the year in question.

It should also be noted that the State Pension for expatriates will only increase each year if they live in:

- The EEA
- Gibraltar
- Switzerland or,
- Countries that have a social security agreement with the UK (but not Canada or New Zealand)

For those not entitled to the yearly increase due to their country of residence this would increase to the current rate if they returned to the UK to live.

The rules for the self-employed are slightly different as it is the payment of Class 2 National Insurance that qualifies them for the State Pension and other benefits (maternity pay, sickness benefits and more). A major change in the treatment of the self-employed and National Insurance contributions is that from April 2022 Class 2 National Insurance will not be payable on profits between the Small Profits Threshold (SPT) (£6,725 in 2022/23) and the Lower Profits Limit (LPL), currently £11,909, but will entitle them to a National Insurance credit.

Another thing that a lot of people are not aware of is that there are occasions when National Insurance credits are given automatically such as if you are, or have been, claiming benefits due to ill health or unemployment. are, or have been, on maternity, paternity or adoption pay. are, or have been, looking after a child under 12. 🇬🇧

Reference/ Citation

HM Revenue and Customs website

<https://www.gov.uk/voluntary-national-insurance-contributions/rates>

<https://www.gov.uk/voluntary-national-insurance-contributions/deadlines>

<https://www.gov.uk/state-pension-if-you-retire-abroad/rates-of-state-pension>

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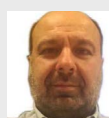
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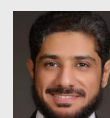
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