KPMG

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Americas

United States: Bill introduced to modify taxation of US citizens living overseas

On December 18, 2024, US Representative Darin LaHood (R-IL) introduced the “Residence-Based Taxation of Americans Abroad Act,” a bill proposing a shift to a residence-based taxation system for US citizens residing overseas. This legislation would allow US citizens living abroad to elect to be treated as nonresidents for income tax purposes without renouncing their citizenship. To qualify, individuals must certify their compliance with US tax obligations for the preceding five years and pay any applicable departure tax due (if any). The election would subject taxpayers to US tax only on US sourced income and would remain effective until terminated by the individual or if they re-establish US residency. Additionally, electing individuals must reside abroad for at least three years post-election, or the election will be reversed retroactively.

The bill also provides electing individuals with benefits under income tax treaties by waiving the treaty saving clause, allowing them to claim treaty benefits despite retaining US citizenship. Furthermore, it exempts them from certain reporting requirements, such as filing Form 8938 and FBAR. The legislation permits electing individuals and US citizens born abroad to apply for a certificate of nonresidency to alleviate Foreign Account Tax Compliance Act-related burdens on foreign financial institutions. The aforementioned departure tax would be imposed on high-net-worth individuals based on a deemed sale of their property, with exceptions for certain assets and individuals meeting specific criteria, such as having a net worth below the estate tax exemption or being long-term residents of a foreign country.

KPMG observations

The United States is one of the few countries that taxes its citizens on worldwide income based on citizenship. President Donald Trump pledged to end double taxation for US citizens living abroad, and the introduction of the "Residence-Based Taxation of Americans Abroad Act" by Representative LaHood marks a preliminary step towards fulfilling this promise. However, the bill's passage remains uncertain due to the numerous legislative proposals facing the new Congress in 2025 and the Republican Party's narrow majorities in both chambers. The bill aims to provide substantial relief for qualifying US citizens abroad by reducing their US tax liability and easing information filing requirements. Long-term foreign assignees could benefit from this election, but they must remain abroad for at least three years to retain the benefits from the election. The proposed departure tax, similar to the existing expatriation tax but with a higher net worth threshold, would apply to high-net-worth individuals.

For more information, please refer to our KPMG Flash Alert or contact the article author, Martha Klasing, via email at mklasing@kpmg.com.

United States: Court allows treaty-based foreign tax credit against net investment income tax

On December 5, 2024, the US Court of Federal Claims issued a partial summary judgment allowing a US citizen residing in Canada to claim a treaty-based foreign tax credit (FTC) against his net investment income tax (NIIT) liability under Article XXIV of the US Canada income tax treaty. This decision marks only the second instance where a court has ruled favorably for US citizens in treaty countries to offset NIIT liabilities with a treaty-based FTC. The case involved a taxpayer who paid nearly US$2 million in Canadian taxes and initially claimed an FTC against his US federal income tax for 2015, but not against the NIIT. After filing an amended return for a refund, which the Internal Revenue Service (IRS) denied, the taxpayer sought legal recourse.

The central issue was whether the treaty-based FTC could offset the NIIT liability, or if the US law limitation clause in Article XXIV precluded such an application. The taxpayer argued that the Treaty provides a self-executing FTC applicable to NIIT, independent of domestic rules. Conversely, the US government contended that the FTC is subject to US law limitations, thus not applicable to NIIT. The Court sided with the taxpayer, determining that the US law limitation clause pertains to the computation of the credit, not its applicability to NIIT. The Court emphasized the Treaty's intent to prevent double taxation, supporting the application of a treaty-based credit even if inconsistent with the Code. The US government has appealed the case to the US Court of Appeals for the Federal Circuit on March 18, 2025.

KPMG observations

The US Court of Federal Claims' ruling presents a potential opportunity for certain taxpayers to offset the NIIT with foreign income taxes assessed on the same income under the US-Canada income tax treaty, despite US domestic tax law not allowing an FTC against the NIIT. This decision could mitigate or eliminate the double taxation imposed by both the United States and Canada on income subject to the US NIIT and Canadian income tax, potentially reducing assignment costs for tax-equalized high-net-worth employees. However, the US government appealed the decision, which may lead the IRS to suspend processing refund claims based on this ruling until the appeals process concludes.

For more information, please refer to our KPMG Flash Alert or contact the article authors, Martha Klasing, Robert Rothery, and Yoori Sohn, via email at mklasing@kpmg.com, rrothery@kpmg.com, and yoorisohn@kpmg.com, respectively.

United States and Switzerland: Agreement identifying eligible pensions for treaty benefits

On December 5, 2024, the IRS published a competent authority arrangement (CAA) entered into by the competent authorities of the United States and Switzerland. The CAA supersedes the CAA signed on May 6, 2021, and applies to dividends paid on or after January 1, 2020.

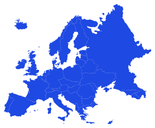
KPMG observations

The CAA between the United States and Switzerland outlines the eligibility of certain US and Swiss pension or retirement arrangements for tax benefits under their tax treaty. The CAA specifies the types of qualifying plans, the procedure for claiming benefits, and the operative date. The CAA aims to avoid double taxation on dividends for these retirement plans, enhancing financial relief and equity for cross-border retirees.

The CAA provides that dividends on retirement and pension income can be received tax free provided that the beneficiary does not control the company paying the dividends.

For more information, please refer to our KPMG Flash Alert or contact the article authors, Martha Klasing or Yoori Sohn via email at mklasing@kpmg.com and yoorisohn@kpmg.com, respectively.

Europe



Denmark and Sweden: Streamlined cross-border employment taxation in new Øresund agreement

On November 14, 2024, the proposal for a new Øresund Agreement (the Agreement) was passed by the Danish parliament, and on November 27, 2024, the proposal was approved in the Swedish parliament. Hence, the amended Agreement will be applicable as of January 1, 2025. The Agreement is a tax agreement between Sweden and Denmark concerning cross-border commuters.

KPMG observations

This Agreement has streamlined cross-border employment between Sweden and Denmark. If an employee works at least 50 percent in the country of employment over 12 months, then the Agreement will deem that all work is in the country of employment. This eases counting workdays to source income between Sweden and Denmark.

For more information, please refer to our KPMG Flash Alert or contact the article authors, Fredrik Lundgren or Anna Valdemarsson, via email at fredrik.lundgren@kpmg.com and anna.valdemarsson@kpmg.se, respectively.

Finland: Expanded tax-free benefits for relocation and cross-border assignments

Starting January 1, 2025, employers in Finland will be able to reimburse employees tax-free for international transfers more widely.

KPMG observations

These revised new tax-free benefits allow for employees to be fully reimbursed tax free for relocations and assignments.

In the past, only 50 percent of costs could be reimbursed (tax-free) and very rarely full reimbursements would be made. This new law will allow for reimbursements to be made for employees moving to Finland for permanent transfer and new opportunities with Finnish employers.

From a global compensation and benefits perspective, this change will allow Finnish employers to better attract global talent and provide employees with more comprehensive benefits, tax free.

For more information, please refer to our KPMG Flash Alert or contact the article authors, Marika Kaitamaa and Heidi Viikari, via email at marika.kaitamaa@kpmg.fi and heidi.viikari@kpmg.fi, respectively.

Sweden: New rules for EU Blue Card

As of January 1, 2025, Sweden has implemented new regulations for the EU Blue Card to attract and retain highly qualified professionals by simplifying the EU Blue Card system. Key changes include reducing the minimum employment period for an EU Blue Card from 12 months to 6 months and lowering the salary threshold from 1.5 to 1.25 times the average gross annual salary in Sweden. Foreign nationals already in Sweden on other permits can now apply to transition to an EU Blue Card without leaving the country, streamlining the process for skilled workers. The updated regulations also allow EU Blue Card holders greater job flexibility, enabling them to change employers or professions by notifying the Swedish Migration Agency without a new application. Additionally, holders of an EU Blue Card from another EU country are permitted to enter and stay in Sweden for business purposes for up to 90 days within a 180-day period during the validity of their permit. This is allowed if the business activities are directly related to the employer´s business interests and the Blue Card holder´s duties based on their employment contract in the first EU state. Furthermore, those who have held a Blue Card for 12 months in another EU state can apply for a Swedish EU Blue Card through a simplified process, enhancing professional mobility within the EU.

KPMG observations

The recent changes to the EU Blue Card regulations in Sweden are anticipated to provide greater flexibility and more favorable terms for highly qualified professionals considering Sweden as a work and residence destination. By simplifying the process, Sweden aims to enhance its attractiveness to skilled workers. KPMG in Sweden views these regulatory changes positively, recognizing them as a significant advancement in the country's efforts to attract and retain highly skilled talent from abroad, aligning with a broader agenda to simplify migration processes for such workers. However, historically, adjustments to work and residence permit regulations in Sweden have required time for the Swedish Migration Agency to fully implement and interpret.

For more information, please refer to our KPMG Flash Alert or contact the article authors, Nina Dahlsten and Peter Lindström, via email at nina.dahlsten@kpmg.se and peter.a.lindstrom@kpmg.se.

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