

February 26, 2014
2014-025

**Australia – Changes to
PAYG Withholding
Variation Process for
Foreign Employers**

by KPMG, Australia (a KPMG
International member firm)

flash International Executive Alert

A Publication for Global Mobility and Tax Professionals by KPMG's International Executive Services Practice

The Australian Taxation Office (ATO) has changed the Pay-As-You-Go (PAYG) withholding variation process for foreign employers with employees working in Australia, with effect from 1 July 2014.¹

Why This Matters

With the upcoming cessation of all existing PAYG variation arrangements, foreign employers and their tax / payroll service providers will need to have in place new practices and procedures in order to comply with the new PAYG withholding variation requirements. This means employers should now be undertaking a review of employees who remain on home country payrolls while on assignment to Australia to determine what changes may need to be made in advance of the 1 July 2014 start date.

Current Arrangement

Where a foreign employer has employees working in Australia and those employees remain on their home country payrolls, the foreign employer may apply to the Commissioner to vary to nil, the PAYG withholding requirements in respect of the taxable salary and wages of those employees.

The purpose of the PAYG withholding variation is to ease the compliance administrative requirements for foreign employers with employees working in Australia who remain on the home country payroll.

A further benefit is that foreign employers have been able to submit a single PAYG withholding variation application for all relevant employees. Where an employee satisfies the necessary criteria, the foreign employer is absolved from withholding PAYG on taxable remuneration paid to the employee. The Australian tax liability is instead settled following submission of the relevant employee's Australian income tax return.

A condition for obtaining the PAYG withholding variation is that the foreign employer must undertake to settle the relevant employee's Australian tax liability in the event of any default by the employee.

Changes from 1 July 2014

The ATO is currently notifying foreign employers and their tax agents that all existing PAYG variation arrangements will cease on 30 June 2014.

A new application will need to be lodged with the ATO for the variation to continue beyond 30 June 2014. Each application will be valid for two years.

A key new additional requirement is that the Australian Tax File Number (TFN) of each relevant employee must be provided for all new applications. Therefore, a foreign employer will need to lodge an additional application for each new relevant employee

once the employee's TFN has been obtained.

KPMG Note

Based on discussions between the KPMG International member firm in Australia and the ATO, it is understood that an employer should apply for the PAYG withholding variation in a timely manner following the relevant employee's arrival in Australia.

The ATO will not accept applications for new arrivals to Australia on an annual basis.

In this regard, it is important to note that where there is no PAYG variation in place, the foreign employer is required to remit PAYG withholding to the ATO in respect of salary and wages paid to employees working in Australia. Where no TFN is provided by the employee to the employer, the required PAYG withholding rate is 46.5 percent.

Other Considerations

- Foreign employers seeking to make use of the PAYG withholding variation for employees should determine that each new employee is aware of his/her obligation to obtain an Australian TFN immediately following his/her arrival in Australia.
- While the ATO has not provided a prescribed timeframe for new PAYG withholding variation applications, it appears that the ATO expects that an application be made immediately following receipt of the TFN by the relevant employee.
- Foreign employers impacted by the new rules should evaluate whether a "shadow payroll" in Australia may be a more practicable solution to the PAYG withholding variation arrangement. In addition to meeting the PAYG withholding obligations in respect of the employee, a shadow payroll may assist in meeting the employer's other compliance obligations, including in respect of Superannuation Contributions and State Payroll Tax.

Footnote:

- 1 For more information, visit the ATO Web site at: <http://www.ato.gov.au> .

For further information or assistance, please contact your local IES professional, or one of the following IES professionals with the KPMG International member firm in Australia:

Sydney

Ablean Saoud
+61 2 9335 8550
asaoud@kpmg.com

Melbourne

Ben Travers
+61 3 9288 5279
btravers1@kpmg.com.au

Adelaide

Tim Sandow
+61 8 8236 3234
tsandow@kpmg.com.au

Perth

Dan Hodgson
+ 61 8 9278 2053
dghodgson@kpmg.com.au

For the latest on immigration from the KPMG International member firm in Australia, see *Migration Newsflash*, “Nomination Ceiling for Standard Business Sponsorships and LMT” (25 February 2014)

Effective 14 February 2014, all standard business sponsorship applications approved will no longer be subject to a nomination ceiling, meaning a business will not be limited on the number subclass 457 visa applications lodged under a specific sponsorship.

For more details, click [here](#).

The information contained in this newsletter was submitted by the KPMG International member firm in Australia. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Flash International Executive Alert is an IES publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our IES practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.