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Belgium – New Emphasis on Penalties for Payroll-Related Non-Compliance

by Ferdy Foubert, KPMG Tax and Legal Advisers, Brussels (KPMG Tax and Legal Advisers in Belgium is a KPMG International member firm)

flash Alert

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Belgium's tax authorities recently announced a policy shift concerning penalties for non-compliance with certain payroll procedures. The authorities, starting in 2016, will readily apply, more so than in the past, their statutory authority to impose penalties and additional tax when taxpayers are non-compliant in respect of their proper filing of wage withholding tax returns, timely payment of wage withholding taxes, and timely submission of salary slips. The announcement represents a stark departure from the tax authorities' former practice of only applying these penalties and surcharges in exceptional circumstances.

Why This Matters

Employers will have to be more vigilant in managing their payroll, both with respect to calculating withholding tax due and timely filing of wage withholding tax returns and salary slips to mitigate the risk of penalties and additional tax.

Background

Article 225 to 229/4 of the Royal Decree implementing the Belgian income tax code provides that in case of non-compliance with payroll procedures, the tax authorities may apply penalties and additional tax. More specifically, these procedures relate to proper filing of wage withholding tax returns, timely payment of wage withholding taxes, and timely submission of salary slips (form 281).

Penalties

The penalties are as follows:

- Late submission of salary slips or failure to submit salary slips: a penalty ranging from EUR 50 to EUR 1,250;
- Incorrect wage withholding tax returns, failure to file wage withholding returns, late payment of wage withholding tax due: a penalty ranging from EUR 50 to EUR 1,250 and/or a tax surcharge of 10 percent to 200 percent of withholding tax due.

The applicable penalty or percentage depends on the taxpayer's record of non-compliance.

In the past, the tax authorities applied these penalties and surcharges only exceptionally. However, they have recently announced on their Web site that as of 1 January 2016, the above-mentioned penalties and surcharges will be applied automatically with each breach of the rules.¹ For failure to file or late filing of salary slips, penalties will already be applied for salary slips with respect to 2014 income. These salary slips had to be filed on different due dates in 2015.

KPMG Note

Employers may wish to consult with their tax service providers to establish whether their payroll systems and processes are adequate and functioning in a manner that will help foster proper compliance with Belgian rules.

Footnote:

1 See (in French) “Amendes et accroissements d’impôt pour fiches fiscales et déclarations de précompte professionnel non rentrées” at: <http://finances.belgium.be/fr/Actualites/amendes-et-accroissements-d%E2%80%99imp%C3%B4t-pour-fiches-fiscales-et-d%C3%A9clarations-de-pr%C3%A9compte> .

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