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flash Alert

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United Kingdom – Treaties with Bulgaria, Croatia, Kosovo, Sweden, Tajikistan in Force

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Her Majesty's Revenue & Customs (HMRC) in the United Kingdom has confirmed that four new income and capital gains tax treaties came into force in December 2015, with some changes of note, in some cases, to the employment income articles. These treaties (with Bulgaria, Croatia, Kosovo, and Sweden) all take effect for income tax purposes from 6 April 2016.[1] HMRC has also just confirmed that the treaty with Tajikistan came into effect from 16 March 2015.[2]

Why This Matters

The implementation of double taxation treaties between two countries is intended to eliminate double taxation by assuring which country has taxing rights over income, and to encourage the flow of labor, goods and services, and capital across borders. The existence of such treaties generally enhances cross-border business and international assignments.

In the cases of the treaties described in this newsletter, each new treaty replaces an existing one that has several out-of-date provisions. Although many of the provisions in the new treaties mirror the previous provisions, there are some differences which employers with operations in the relevant countries should be aware of. In particular, changes to the employment income articles may mean that there is a reduction in relief available, which potentially raises costs.

This GMS *Flash Alert* discusses certain provisions of the new treaties with an emphasis on those that may affect cross-border employees and their multinational employers.

Bulgaria

Employment income – The employment income article of the treaty between the U.K. and Bulgaria – which many employees and their employers rely on to claim exemption from U.K. taxation – is being amended and this will result in a reduction in the availability of relief.

The amended treaty will require taxpayers to consider whether they have been present in the other country for 183 days during any 12-month period starting or ending in the fiscal year in question, as opposed to 183 days in the calendar year.

U.K. resident but not U.K. domiciled – Relief from Bulgarian taxation under the new treaty will also be restricted when the employee is U.K. resident but not U.K. domiciled and has income or gains which are assessable on the remittance basis, but not actually taxed in the United Kingdom.

Dual residents – The rules for determining the position of dual residents under the treaty between the U.K. and Bulgaria have also been amended. The new article is now in line with the OECD model tax convention.

Interest and dividends – The treaty also changes the rates of withholding tax on interest and dividends. Under the previous treaty, broadly, interest and royalties are not taxable in the source country, but dividends can be taxed at up to 10 percent. The new treaty replaces this with a 5-percent rate for interest, dividends, and royalties.

Croatia

Employment income – As with Bulgaria (above) the new treaty with Croatia has an amended employment income article. Again, taxpayers will now be required to consider whether they have been present in the other country for 183 days during any 12-month period starting or ending in the fiscal year in question (as opposed to in the calendar year), and this is likely to result in a reduction in the availability of relief.

Pensions – The previous treaty made no provision for relief for pension contributions. The new treaty alters the position, providing for relief in the host country for pension contributions made to a tax-recognized pension scheme in the home location for both income tax and corporation tax. The relief available is subject to the same conditions and limits as a scheme in the host country, and that country must recognize the scheme as being broadly equivalent to a qualifying pension scheme in that location. To qualify for relief under the article, the employee must have been nonresident in the host state and a member of the pension scheme prior to starting work there.

Interest and dividends – The new treaty also makes changes to the rates of withholding tax on interest and dividends. There is a reduction in the rate which can be charged on interest and on some dividends, but the previous dividend rate of 15 percent remains where the dividends are paid out of income derived directly or indirectly from immoveable property and distributed from an investment vehicle.

Kosovo

Both the Kosovan and Croatian treaties replace the 1981 treaty between the U.K. and Yugoslavia, and the significant changes broadly mirror those outlined with respect to the above-discussed treaties.

Employment income – Again, for the purposes of the employment income article, individuals will have to consider whether they are present in the other country for 183 days in any 12-month period beginning or ending in the tax year rather than 183 days in the relevant calendar year, as under the old treaty.

Pensions – As with the U.K.-Croatia treaty, the new U.K.-Kosovo treaty introduces relief for contributions to a pension scheme established in one of the contracting states when determining the tax paid by an individual, or the taxable profits of his/her employer, in the other contracting state.

Interest and dividends – The position on the taxation of interest and dividends does not match that in the Croatian treaty. Under the U.K.-Kosovo treaty, dividends will generally be exempt from tax in the source country. An exception to this is dividends derived from immoveable property paid out by an investment vehicle that is not itself subject to tax in the source country, in which case the source country can withhold tax at up to 15 percent.

Interest and royalties will be generally exempt from tax in the source country.

Sweden

The U.K. and Sweden income and capital gains tax treaty which just entered into force was signed on 26 March 2015, and replaces the 1983 treaty. As with the other treaties covered in this newsletter, the employment income article of the new U.K.-Sweden treaty requires individuals to consider whether they have been present for 183 days in any 12-month period beginning or ending in the relevant tax year. However, this mirrors the position under the old treaty, so will not lead to a reduction in the relief available.

In addition, where an employee receives remuneration for working aboard a ship or aircraft operated in international traffic, the remuneration will only be taxable where the employee is resident. This is a change from the previous treaty and such employees and their employers should consider the implication of this change.

KPMG Note: The Remittance Basis Clauses in the Treaties

Many U.K. treaties limit the available relief when income is taxable only if remitted to the U.K., so that relief is only available in respect of amounts remitted. The treaties with Bulgaria, Kosovo, and Sweden include such a clause, but the treaty with Croatia does not.

Tajikistan

This treaty was the subject of a previous report (see *Flash International Executive Alert* 2014-066, 16 July 2014), although the treaty was not in force at that time. HMRC has now announced that the treaty came into effect on 16 March 2015.[3]

Next Steps

Four of these treaties take effect for income and capital gains tax purposes from 6 April 2016. Employers with operations in the relevant jurisdictions should consider the impact of the changes ahead of that date.

Footnotes:

1 The treaties can be found on the U.K. government Web site:

Bulgaria: https://www.gov.uk/government/publications/bulgaria-tax-treaties-in-force .

Croatia: https://www.gov.uk/government/publications/croatia-tax-treaties-in-force .

Kosovo: https://www.gov.uk/government/publications/kosovo-tax-treaties .

Sweden: https://www.gov.uk/government/publications/sweden-tax-treaties-in-force .

2 See: https://www.gov.uk/government/publications/tajikistan-tax-treaties-in-force .

3 Ibid.

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KPMG Law (Canada) Webinar:

Canadian Permanent Residence – 2016 Forecast

Key Employer Strategies for 2016

Tuesday, January 26, 2016 – 9:30 EST (GMT -5)

You are invited to a 45-minute webinar which will highlight the key developments in various Canadian Permanent Residence programs in 2016 as well as present key strategies for employers to take advantage of the new programs.

Who should attend?

This seminar will benefit Global Mobility, HR, Relocation and Legal Advisors, who are involved in the movement of foreign workers to Canada.

Date: **January 26, 2016**

Time: **9:30 – 10:15 EST (GMT -5)**

Register/RSVP: Click here to Register for Webinar/Conference details.

The information contained in this newsletter was submitted by the KPMG International member firm in the United Kingdom.

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