# TAX LETTER ASIA
# GLOBAL EXPATRIATE SERVICES
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## In this issue




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## China

### New visa requirements for short-term workers coming to China

A new notice was recently issued by relevant China government authorities to further regulate and clarify the visa requirements for certian short-term workers coming to China. The notice is in effect from 1 January 2015.

According to the new requirements, short-term workers coming to China for 90 days or less for the follwoing reasons should apply for a Z visa:

- Working with business partners for technical knowhow; scientific research, management and supervisory work
- Conducting training for sports organization (including advertisements and documentaries)
- Performing in fashion shows (including car exhibition, print ads, etc)
- Participating in commercial performances, and
- Other situations as identified by the Ministry of Human Resources and Social Security

Chinese business partners should assist to obtain an employment license, working certificate and invitation letter fro the competent government authorities in China before the short-term workers can apply for their Z visa applications with appropriate China Embassy and Consulate office. Compared to M visa (which is issued for the commercial and trade activities) and F visa (which is issued for the exchange and visits), requirements for the Z visa applications are more rigorous.

Unlike the Z visa for those who take up employment or long term secondment in China, the Z visa for short-term workers is not renewable upon expiry. Therefore, employers and short-term workers should carefully plan and monitor their short-term assignements in China.

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## Hong Kong

### E-Channel Service for German passport holders, Paternity Leave and increase of minimum wage

As of November, German passport holders in Hong Kong can enrol in the e-Channel service. The e-Channel service enables individuals to enter and depart from Hong Kong within a few minutes and requires a Hong Kong Identification Card. German passports holders are the only Western country allowed to use the e-channel service. Other accepted passport holders are Chinese, Korean, Macanese and Singaporean. Business and leisure travellers will benefit from this time saving arrangement. Employers should remind their Expatriates to keep the landing slip containing the conditions and limit of stay to ensure compliance with their personal tax liability in Hong Kong.

As of 27 February 2015 working fathers and fathers-to-be are entitled to 3 days' Paternity Leave. A male employee will be entitled to 80% paid Paternity Leave if:

» he is the father
» he is employed with the company for at least 40 weeks immediately before taking the Paternity Leave and
» and has complied with the specified "notification requirements".

The three days can be taken consecutively or separately starting four weeks before the expected date of delivery and ending 10 weeks after the actual birth. Employers should evaluate the policies and procedures they have in place for Paternity Leave.

Hong Kong's Minimum Wage will increase from the current 30 HKD (EUR 3.30) per hour to HKD 32.5 (EUR 3.60) per hour as of 1 May 2015. The current monthly remuneration cap for which an employer is not required to keep a written record of hours worked, will therefore increase from HKD 12,300 (EUR 1,400) to HKD 13,300 (EUR 1,500) per month. Employers are advised to review their payroll procedures.

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## India

### Secondment constitutes Service Permanent Establishment under Indo US DTA

Mumbai Tax Tribunal (ITAT), in its recent ruling which involved Morgan Stanley International Incorporated confirmed among other Indian judgements, that the Economic Employer Concept does not exist and that in the case of US Indo Double Tax Avoidance Agreement (DTA) in contrast to German DTA a Service Permanent Establishment (PE) is constituted. The Reimbursement of salary is not taxable as a Fee for Technical Service, it is business profit. This judgement shows again, that western concepts of Economical and Legal Employer are not likely to be introduced in India until changes are made to the Indian Tax Law.

Morgan Stanley International Incorporated, a US tax resident and 100% subsidiary of Morgan Stanley USA, provided support services to its subsidiary companies. It seconded five of its employees to its two Indian subsidiaries, Morgan Stanley Advantages Services Pvt. Ltd. and MISM Global Support and Technology Services Pvt. Ltd. The seconded employees were directly supervised and controlled by the Board of Directors of the subsidiaries. As their daily business and responsibility was related to the subsidiary and they were only accountable to the subsidiaries. The US Company Morgan Stanley International made salary payments to its seconded employees on behalf of the subsidiaries, deducted TDS (Tax Deduction at Source) and deposited it according to Indian laws. The same amount was then reimbursed without any mark- up by the relevant subsidiary, where the seconded employees were working. The Tax Assessing Officer regarded these payments as Fees for Technical Services and this opinion was upheld by the first appellate authority too, till the ITAT decided otherwise. Transfer pricing and service tax were not concerned, but should be regarded in the tax planning of secondments as well.

## Indonesia

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### Amendment of 2014 Annual Individual Income Tax Return Form

The Annual Individual Income Tax Return form was changed by the issuance of the Director General Taxes' (DGT) regulation, dated 3 July 2014. The most recent update to the form was on 1 January 2010, by the start of 2010 tax year.

In these regulations, there are several changes, affirmation and additional sections in both the Individual taxpayer SPT 1770 and the 1770s including:

» Treatment of Income husband and wife are taxed separately (as per previous rule)
» Income solely derived by the wife from one employer (as per previous role)
» Obligations to attach details of the amount of income and payment of final income per tax period and of each place of business if it has more than one place of business with a sample format attached
» Code Listing (Property and Debt at Year-End Code)
» NIK (Nomor Induk Kependudukan / Residential ID number) of each family member
» Newly added Taxation Status section:
    - KK – Husband is Head of Family;
    - HB – Married couple live apart as per judge decision;
    - PH – Segregation of Assets or
    - MT – wife may choose to exercise her rights and own tax obligations.
» Tax ID Number for husband or wife

Please note that the due date for submitting these forms to the tax authority is at the end of March 2015, for the 2014 tax year.

## Philippines

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### Philippine business group proposes new Personal Income Tax brackets

The Tax Management Association of the Philippines (TMAP), a Philippine business group which aims to professionalize tax practice and provide a channel by which the private sector may actively participate in the drafting of tax laws, rules and regulations, filed a proposal with the Philippine Congress' Ways and Means Committee for the overhaul of the current personal income tax brackets.

Under the proposal, TMAP recommends that the ceiling of annual tax-exempt income should be increased from the current PHP 10,000 (approx. EUR 200) to PHP 300,000 (approx. EUR 6,050).

Annual income of over PHP 300,000 up to PHP 500,000 (approx. EUR 10,100) was proposed to be taxed at 10% as compared to the current tax rate of 30%.

Further, those whose taxable income is over PHP 500,000 but not over PHP 1,000,000 (approx. EUR 20,200) are to be taxed at 20%, those over PHP 1,000,000 but not over PHP 2,500,000 (approx. EUR 50,300) at 25%, and those over PHP 2,500,000 at 30%. These income levels are currently taxed at 32%.

In a press interview, TMAP, through its president, said the objective of their proposal is to ensure greater fairness and equity in the tax system, as well as simplify it to enhance compliance, expand the base and, consequently, increase revenue collections.

## Taiwan

### Health Exams Enforced Under New Occupational Safety and Health Act, Rules Relaxed for Professionals Working at Startups, Austria-Taiwan Double Taxation Agreement in Effect

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The new year in Taiwan brings new rules and regulations as well as improvements for doing business in Taiwan

Taiwan's Labor and Safety and Health Act was amended and renamed the "Occupational Safety and Health Act" in the summer of 2013. Since January 2015 Companies must follow new enforced rules on offering health checks to employees. Employees under 40 must have a health check at a government-approved hospital once every five years, while those between 40 and 65 must have a health check once every three years. Employees over 65 must provide an annual health check. Companies must subsidize these exams. Jobseekers are requested to provide health check certificates when starting work.

Taiwan's Ministry of Labor recently amended its rules for foreigners wishing to obtain work permits in order to take jobs at tech startups. The requirement that foreigners with bachelor degrees also have two years of work experience has been waived for those taking work in qualified startups. In addition, foreign managers will not lose their work permits if their startup fails to meet the financial requirements for a renewal of the work permit after two years of setup. In related news, foreign graduates of Taiwan universities no longer need to have two years of related work experience in order to obtain a work permit in Taiwan.

Austria and Taiwan's Double Taxation Agreement, signed in July of last year, took effect at the beginning of 2015. This is Taiwan's 13th tax accord with a European country, and the island's 28th overall. Trade between Austria and Taiwan totaled USD 780 million (EUR 680 million) in 2013. Although Taiwan is not a member of the United Nations, the agreement follows the provisions of the United Nations Model Double Taxation Convention.

## Thailand

### Tax Deductibility of Travel Expenses, Elimination of Tax Exemption for Profits from Group of Persons, Director fee is VAT exempt

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Expenses paid for domestic hotel accommodation, travel agents or tour guides between 16 December 2014 and 31 December 2015 in the amount of up to THB 15,000 (approx. EUR 410) can be deducted from taxable personal income. A receipt stating the name of the taxpayer, the date and amount of the expense and the tax ID of the issuer has to be provided.

The partnership or "group of persons" was widely used as a way to reduce one's personal income tax burden. Example: A taxpayer receives a salary from his employer which is taxed at the progressive personal income tax rate. The same taxpayer also co-owns a condominium and sets up a "group of persons" together with the other co-owners. The condominium is rented out and the profits of the group of persons are taxed at the personal income tax rate without taking any other income of the individual members into account. Any profit shares transferred from the group of persons to its individual members were tax-exempt until 31 December 2014. The taxpayer in our example could therefore split his total income and thereby benefit from the lower progressive income tax rate. Since 1 January 2015, the profit shares from the group of persons are no longer tax-exempt. Furthermore, a group of persons is now obliged to file a year-end financial report outlining its income, expenses and other remaining amounts. The legislator has thereby effectively closed the loophole for tax evasion that the previous regime regarding groups of persons provided.

As announced by the Director-General of the Revenue Department, the duty as a director of a limited company or a public company shall not be considered as a service and therefore the director fee derived from such activities are exempt from VAT.

## Vietnam

### New Vietnam Law on Immigration

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On 16 June 2014, the National Assembly has issued Law on Entry, Transit and Residence of Foreigners in Vietnam, which took effect on 1 January 2015. Some remarkable changes are:

- Foreigners holding more than one passport are required to use only one passport for all the activities of entry, exit, transit, residence during their being in Vietnam.
- The purpose of entry cannot be changed after entry, according to which foreigners are required to exit from Vietnam for a new visa with different purpose to be issued.
- Prior to the issuance of Working Visa for the foreigners, the Work Permit must already be available.
- The Visa for tourists shall be issued in case of being sponsored by an international tourism company in Vietnam. Without a sponsor, it might be difficult to get the visa to enter into Vietnam. The conditions so far are not very clear.
- Already under the former regulations, foreigners holding a passport of Denmark, Finland, Japan, Norway, Russia, South Korea or Sweden are allowed to be in Vietnam 15 days without a visa. However, it should be noted

that these foreigners must have the entry date at least 30 days from the previous exit.

» Visa issuance at border checkpoints (also known as visa on arrival) is only accepted in some restricted cases. Any visa shall be primarily received at the overseas Vietnam visa-issuing authority (Diplomatic Missions of Vietnam in other countries) as practiced until now.
» Visa exemption for foreigners holding passports of countries having visa exemption agreements with Vietnam is still applied as the former regulations. Most of these agreements are only applied to Diplomatic. Only some are also applied to Ordinary Passports such as agreements with Brunei, Cambodia, Indonesia, Kyrgyzstan, Myanmar, Philippines, Singapore, and Thailand with 15-30 days visa exemption.

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