

Sydney, 26 July 2010 - For employees completing their 2010 income tax returns, it is an opportune time to remind them that recent changes to the law mean that they are now taxed in Australia on income they earn from foreign employment.

Prior to 1 July 2009 foreign employment income earned by Australian resident employees working offshore for more than 91 day was exempt from Australian income tax where the income was taxed in the foreign country.

From 1 July 2009 foreign employment income is assessed for tax in Australia, but the employee is entitled to a credit for any foreign income tax they have already paid, up to the Australian tax payable on that income.

This will increase the compliance burden on individuals as they will be required to maintain evidence of any foreign employment taxes paid. Difficulties may arise in obtaining receipts from the Internal Revenue Authorities in some countries. In certain circumstances, payslips evidencing taxes withheld by their employer will be sufficient evidence to support a claim for a foreign tax credit.

Furthermore, as foreign employment income is now included as taxable income, Australians working overseas may now be subject to the Medicare Levy Surcharge unless they have private health insurance.

Under the former foreign employment rules, many employees working overseas may have suspended or cancelled their private health insurance. This is because they may not have required access health facilities in Australia whilst working overseas and the former exemption for foreign employment income meant that they would generally not have been subject to the Medicare Levy Surcharge.

Affected individuals should reconsider their private health insurance options in order to avoid having to pay the Medicare Levy Surcharge.

Another consequence of the changes to taxing of foreign employment income is that benefits provided to Australian employees working overseas will now be subject to Fringe Benefits Tax (FBT) in Australia. As FBT is paid by employers, affected businesses may be reluctant to continue providing employees with the same level of fringe benefits going forward.

For employees who will continue to receive fringe benefits as part of their foreign employment remuneration packages, many overseas countries assess the employee to tax on non-cash benefits they receive. This can lead to potential double taxation on fringe benefits, as the Australian employee may pay income tax on the benefit in the overseas country and the employer may also pay FBT in Australia on the same benefit.

In light of these recent changes it is important that affected employers and individuals review their foreign employment arrangements and determine what alternatives are available.

By Rami Brass, director of tax services, RSM Bird Cameron

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