Global Legislative Developments

This document summarises recent legislative developments and trends related to employee benefits and highlights recently passed and pending legislation that may require employers to take action to comply with new rules. This document should not be seen as exhaustive and any action should be taken in conjunction with your Global Benefits Consultant.

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COUNTRIES COVERED IN THIS UPDATE:

Americas: Canada and the United States
Asia Pacific: China and South Korea
Europe: Austria, France, Germany, Slovakia and the United Kingdom
Middle East: Israel and Saudi Arabia.

Recent developments summary

Austria	Parliament has passed the Family Time Bonus Act; a new Act effective from 1 March 2017 that provides new fathers with statutory paternity leave and benefits.
Canada	There is a new set of proposed legislation changes surrounding employees' pensions.
China	The Enterprise Annuity System has a low uptake in China, questioning the future of the pension scheme and the China Insurance Regulatory Commission is to start a trial on Beijing-Tianjin-Hebei as of 1 February 2017.
France	Amendments to Loi Evin Art 4 are expected for retirees medical coverage. The aim is to contain costs increase for retirees who paid expensive individual policies compared to what they paid previously under a group plan.
Germany	The German government is pushing to establish the new Occupational Pension Improvement Act.
Israel	Amendment 3e3 of the Economic Efficiency Law 2016 will affect tax paid by high earners effective from January 2017 on monthly funding deposits paid to meet future severance pay obligations. In accordance with a national collective work agreement signed between the Histadrut and industry representatives February 2016, minimum pension contribution rates increased from January 2016. Minimum annual vacation allowance for a 5-day workweek increases from January 2017.
Saudi Arabia	All private sector employers must register their employees and their dependents under a single policy for mandatory health insurance.
Slovakia	Introduction of the new Non-Life Assurance Levy in Slovakia applicable to all non-life (except MTPL) insurance premiums, including Personal Accident policies.
South Korea	Medical Expenses will only be covered for those with 'Basic' Coverage as of April 2017. As of Jan 2017, it is compulsory to have a company pension for companies with more than 300 employees.
United Kingdom	HMRC issues restrictions on transfers to French, Italian and Canadian pensions.
United States	In late October 2016, the IRS released the 2016 final forms and instructions for the ACA employer reporting requirement. Separately, the IRS have announced the 2017 Health FSA limits and 'The Impact of the Election on Employer Sponsored Health Benefits'.

Americas

CANADA

There is a new set of proposed legislation changes surrounding employees' pensions.

The Canadian government have released proposed changes to the Ontario Pension Benefits Act. It states that all pension plans in Ontario will be required to issue annual pension statements to retirees and deferred vested members. In the case of DC plans, Life Income Fund (LIF) style payments will be permitted as retirement options. SIPPs are now statutory filings.

Employers will need to be aware that if the above legislative changes are legalised, it may result in increased costs to companies that sponsor defined benefit plans registered in Ontario.

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2016 Final Forms and Instructions ACA Employer Reporting were released by the IRS.

Under section 6056, all applicable large employers (ALEs) – those averaging 50 or more full-time equivalents (FTEs) in the previous calendar year – must report to the IRS information about the healthcare coverage offered to full-time employees using Forms 1094-C and 1095-C. Under section 6055, all employers offering a self-funded group health plan considered to be minimum essential coverage (MEC) must report to the IRS information about the individuals actually covered under the plan. If an ALE offers a self-funded group health plan, all information required will generally be reported using Forms 1094-C and 1095-C. If a small employer (fewer than 50 FTEs) offers a self-funded group health plan, coverage information will be reported using Forms 1094-B and 1095-B.

IRS Announces 2017 Health FSA Limits

Health Flexible Spending Account (FSA) – 2017 Annual Limitation of $2,600

Health care reform imposed a $2,500 limit on annual salary reduction contributions to health FSAs offered under Section 125 (Cafeteria) plans, effective for plan years beginning after 31 December, 2012. The $2,500 amount is indexed for cost-of-living adjustments for plan years beginning after 31 December, 2013, but was not changed for 2014. For 2015 and 2016, the annual limitation on salary reductions was increased to $2,550. The annual limitation for 2017 has been increased to $2,600.

The impact of the election on employer sponsored health benefits

With control of Congress and the White House, Republicans are in a position to make significant changes to ACA and other benefit-related laws. How quickly it will take place and what exactly will change have yet to be determined. It is important that employers refrain from assuming anything and stay the course for at least the next few months.

CHINA

The Enterprise Annuity System has a low uptake in China questioning the future of the pension scheme and China Insurance Regulatory Commission (CIRC) is to start trial on Beijing-Tianjin-Hebei as of 1 February 2017.

Enterprise Annuity System

The enterprise annuity system in China - an occupational pension scheme originally set up by the Chinese government in 2004 - has been slow in attracting subscribers, raising concerns about inadequate retirement funding in the ageing country.

Summarised in the '2016 China Pension Development Report', which is written by the Chinese Academy of Social Sciences, it indicated that the proportion of enterprises joining the annuity scheme is relatively low, at 10%, with only 8% of the total employee workforce of the country signing up.

The scheme was set up to supplement the basic pension scheme, payouts from which are deemed as too small to fully support retirement.

CIRC to start trial on Beijing-Tianjin-Hebei as of 1 February 2017

CIRC yesterday released guidelines for starting a pilot programme for integrated insurance operations in the Beijing-Tianjin-Hebei area. The trial scheme will start on the 1 February and last for two years.

During the trial period, CIRC would encourage insurers, which have yet to establish branches in Beijing-Tianjin-Hebei, by giving them priority to set up such entities in Hebei provided their operations would promote the coordinated development of the three regions. The move would ease the pressure brought by the large number of insurance companies that wish to establish a base in Beijing.

Medical Expenses will only be covered for those with 'Basic' Coverage as of April 2017. As of Jan 2017, it is compulsory to have a company pension for companies with more than 300 employees.

Medical expenses

The South Korean government have stated that as of April 2017, there will be new legislation ("Amendment of Medical Expenses") that states medical expenses will only be covered for those that have 'basic' coverage.

In South Korea, there are two main categories medical expenses are divided into: 'Basic' and 'Rider'; the 'Rider' coverage covers procedures such as taking an MRI and spine manipulation. The new legislative change means those that require or want to purchase more extensive cover, will need to purchase this independently. If an employee purchases the 'Rider' coverage, they must also have the 30% deducted from their pay for the basic coverage. This change aims to prevent employees from taking excessive treatment.

Company pension

As of 1 January 2017, the update to the Employee Retirement Benefit Security Act states that it is compulsory for companies to implement a corporate pension scheme if they have more than 300 employees. The mandate would be gradually extended to small employers, and by 2022 all companies with more than 1 employee will need to offer a company pension.

AUSTRIA

Parliament has passed the Family Time Bonus Act; a new Act effective from 1 March 2017 that provides new fathers with statutory paternity leave and benefits.

All new natural or adoptive fathers will be entitled to a childcare allowance (Kinderbetreuungsgeld) as well as taking paternity leave and benefit as of 1 March 2017.

Childcare allowance

The current system has four flat-rate options that employees choose between and uses a calculation of length of time to determine the amount paid, ranging from €14.53 to €33.88 per day. The child care allowance program will merge the current four flat-rate options. The separate means-tested allowance will be unchanged.

Parents that share parental leave 50/50 (or at least 40/60) will receive a partnership bonus (Partnerschaftsbonus); a bonus of €500 per parent (€1,000 in total) that has to be requested from social insurance.

Paternity leave

Employees will be able to choose to take leave of between 28-31 days at €22.60 euros per day (accumulating to €700 for the total leave period), which will be paid for by the employee's health insurance rather than the employer. Employees that have been in service for 26 weeks, prior to the paternity leave being taken, will be eligible and taking the time off will not discriminate against their employment or social security protection whilst on paternity leave.

Leave can be taken by one or both parents but cannot be taken simultaneously – with the exception of a one-month period when the child is a new-born, in which case it can be shared at the same time.

Whilst this is not currently paid for by the company, employers will need to ensure that their leave policies reflect the above changes as well as implement a process to ensure there is work cover for those taking paternity.

FRANCE

Minimum wage and Social Security ceiling increased. Plus, review of the legal cost framework for the retiree population on collective medical cover looks to control costs.

As of 1 Jan 2017, the minimum wage has increased

The minimum hourly wage has increased by 0.93% putting it at 9,76€ (it was 9,67€ in 2016).

For a full-time employee (35 hours per week) the monthly gross salary will be 1,480€. The net will be of 1,153€.

The Social Security ceiling used to calculate most of the French social security contributions has been re-evaluated with an increase of 1.6%.

This brings the Annual Social Security Ceiling to 39,228€ and the Monthly Social Security Ceiling to 3,269€.

Project of decree to review the legal cost framework for the retiree population on collective medical cover (Evin Law, Art. 4).

The Law known as the "Evin Act", states that former employees may continue to receive benefits "equivalent" to those provided for in the collective bargaining agreement (CBA) of their former employer, on an individual basis.

The global contribution for this population must not exceed 150% of the overall tariff applied to active employees. A draft of the decree aims to organize a gradual increase of the rates to cover those former employees.

Starting 1 January, 2017, the rate increase needs to be intermittent over 3 years to reach the 150% cap at the end of the third year after leaving the company.

During the first year, the rates should not surpass the price given for active employees. During the second year the rate should be limited to a 25% increase and during the third year, rates should not surpass the maximum increase of 50%.

As the French medical schemes are quite comprehensive, the loss ratio for the retiree population is commonly in deficit. Thus, if the decree is issued, it is expected to have an increase on active employee plans in order to balance the loss on the retiree population.

GERMANY

The German government is pushing to establish the new Occupational Pension Improvement Act.

The German government, is pushing to establish the Occupational Pension Improvement Act; a new law surrounding pension rules and regulations that is currently in draft stage in Germany. It is due to be effective from January 2018 with the following cornerstones:

- The implementation of a purely defined contribution pension scheme will be possible (based on labour agreements), meaning that pension plans with no minimum benefit guarantees are able to be set up in order to provide total relief financially to the employer
- There will be a statutory subsidy given to companies providing an employer-financed pension scheme if employees earn a monthly salary of below 2,000€. The employer will be refunded with 30% of his contribution when paying an amount of 240€ to 480€ a year into the pension scheme.
- There will be a monetary uplift on the tax-deductible amount currently provided for salary conversion into an occupational pension scheme (current details can be found on: Section 3, No. 63 of the German Income Tax Act). From January 2018, the deductible contribution is supposed to rise on over 6,000€ year.
- Employees will be allowed to catch up on missing contributions for out-of-work periods, e.g. sabbatical, parental leave.

SLOVAKIA

Introduction of the new Non-Life Assurance Levy in Slovakia applicable to all non-life (except MTPL) insurance premiums, including Personal Accident policies.

The Slovakian government have adopted an extra 8% levy on Non-Life Assurance (except MTPL) premiums paid by insurers as of 1 January 2017 on all new policies. The levy is applied to the gross premium where the risk group is partially or wholly located in Slovakia (standard EU location of risk rules apply). It is important to note that policies issued before 1 January 2017 will be renewed under the original conditions and, therefore, the levy will not be applied to these premiums.

There is a potential risk that SME's will reduce their employee population in Slovakia due to higher premiums for the Non-Life Assurance premiums and large companies may use foreign insurers in the EU to cover their risk group. These risks may accumulate to a year-on-year reduction in the volume of Non-Life premiums in Slovakia.

UNITED KINGDOM

HMRC issues restrictions on transfer to French, Italian and Canadian pensions.

All French and Italian pension schemes were removed from HMRC Recognised Overseas Pension Schemes (ROPS) list last month but HMRC has not issued anything to explain why this has happened. Many Canadian schemes were also affected. The Financial Times speculates that it is because French pensions legislation allows members to access their benefits before age 55 in certain circumstances.

In order to be a Qualifying Recognised Overseas Pension Scheme (QROPS) then the scheme must meet the conditions to be a Recognised Overseas Pension Scheme (ROPS). The HMRC internal pension tax manual (PTM112300) outlines the ROPS conditions in more detail. In particular, the 'Pension Age Test' which was introduced from 6 April 2015 has meant that many schemes no longer meet the ROPS conditions and have consequently been delisted by HMRC.

It is not believe that HMRC has introduced an outright ban on French or Italian schemes and it is more likely to be the case that, if a scheme has a provision within its rules which restricts members from accessing benefits which have been transferred from the UK before age 55 then this is sufficient to meet the ROPS conditions and the scheme can re-register with HMRC and appear on the ROPS list again. For example, soon after the Pension Age Test was introduced, all Australian schemes, but one, were removed from the ROPS list. However, over time many of the Australian schemes have now been added back to the list. It is possible we could see something similar happen with French, Italian and Canadian schemes.

SAUDI ARABIA

All private sector employers must register their employees and their dependents under a single policy for mandatory health insurance.

Whilst this is not a new policy, this is a mandate that will soon be impacting all employees, as the regulation continues to be rolled out.

All private sector employers must register their employees and their dependents under a single policy for mandatory health insurance; which will need to be identifiable under their work visa and linked to their employee number.

Implementation timings depends on the number of employees:

100 or more employees — 1 July 2016
50 to 99 employees — 10 October 2016
25 to 49 employees —10 January 2017
1 to 24 employees — 10 April 2017

Employers will face penalties, including a temporary or permanent recruiting ban, if they do not adhere to this policy. The policy will be monitored and enforced by the inspection committee under The Ministry of Labour and Social Development and CCHI.

It will now also be necessary to purchase travel health insurance for visitor on business visas from a Saudi Insurance provider exclusively through an online portal; the online portal offers applicants a choice of plans that provide coverage up to a maximum of SAR 100,000. The cost of the insurance depends on the length of stay and is integrated with the cost of the visa application.

Employers will need to be aware of the new health insurance arrangements and make sure they fully adhere to the policy in order to avoid penalties.

Amendment 3e3 of the Economic Efficiency Law 2016 will affect tax paid by high earners effective from January 2017 on monthly funding deposits paid to meet future severance pay obligations.

Tax impact for severance pay obligations

Any employee who has worked for more than one year at his/her current place of employment is entitled to severance pay if their employment contract has been terminated by the employer. The employee is entitled to one months' salary for every year of work completed, based on the last monthly salary.

If the severance pay amounts to more than 2,667 ILS/month, the amount will be assessed as a benefit in kind to the employee and taxed at the standard marginal rates of income tax. This will, in effect, incur an additional tax cost for employees earning above 32,000 ILS/month. The threshold cap of 32,000 ILS will be adjusted on 1 January of each year, in line with increases in national average earnings.

Increase to minimum pension contribution rates introduced

In accordance with a national collective work agreement signed between the Histadrut and industry representatives February 2016, minimum pension contribution rates increased from January 2016.

Changes to minimum vacation allowance

Minimum annual vacation allowance for a 5-day workweek increases from January 2017 and begins at 12 workdays per annum for the first 5 years of service increasing up to 20 days from the twelfth year of service.