



March 2020

## 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
- Asia Pacific:** Australia and India
- Europe:** Croatia, France, Germany, Lithuania, Poland
- Middle East  
& Africa:** Israel, Nigeria and the United Arab Emirates
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## Recent developments summary

<b>Australia</b>	Changes to Superannuation Guarantee (Administration) Act 1992
<b>Canada</b>	Proposed changes to the tax treatment of employee stock options not coming in to force on the previously proposed date of 01 January 2020.  Ontario permits variable benefits in DC pension plans
<b>Croatia</b>	Changes to health and life benefits effective 01 January 2020
<b>France</b>	Teleconsultation, a rising trend on the French health market, boosted by the recent strikes against the pension reform.
<b>Germany</b>	Company pension: introduction of a tax-free allowance
<b>India</b>	Insurance Regulatory and Development Authority (IRDA) makes some changes to Benefit Continuity when an individual switches from group to individual or family floater policy
<b>Israel</b>	Prohibition of pension payments via a broker trustee bank account delayed by one year
<b>Lithuania</b>	Changes to Personal Income Tax Law limits the tax advantage conditions for voluntary health insurance
<b>Nigeria</b>	Nigeria's 2019 Finance Bill passed into law by the House of Representatives on 28 November 2019, reforming tax laws in Nigeria
<b>Poland</b>	Second phase of the PPK enrolment becomes effective January 2020  The abolition of second pension pillar in 2020
<b>United Arab Emirates</b>	Dubai – DIFC Employee Workplace Saving plan set to incept as of 01 February 2020  Abu Dhabi – Changes to Compulsory medical plan in Abu Dhabi

## Americas

### Canada



#### Tax treatment of Employee Stock Options

On June 17, 2019, the federal Minister of Finance tabled a Notice of Ways and Means Motion to implement the new limitations. Stakeholders were consulted for input on the characterization of companies that should be considered “start-up, emerging, and scale-up companies”, as these corporations would not be subject to the new employee stock option tax rules.

Although the consultations closed on September 16, 2019, the government continues to review stakeholder input against the proposed new regime, and as a result, the proposed changes to the tax treatment of employee stock options did not come into force on the previously proposed date of January 1, 2020. The government has confirmed that it will announce further details of this measure, including the new coming-into-force date, in the 2020 federal budget.

The delay in the coming-into-force date will provide organizations with greater time to review and plan for the new employee stock option tax rules. As part of its review and planning, some organizations may wish to consider alternative forms of incentive-based compensation.

#### Ontario rules for administering variable benefit accounts

DC pension plans offering variable benefits are required to give prescribed information about variable benefits as part of the former member’s retirement option statement. The statement must include a statement that the retired member will have the option of transferring up to 50% of the amount transferred to the variable benefit account at the time it was established to an unlocked registered retirement savings arrangement within 60 days of establishing the variable benefit account.

A DC plan may permit the transfer of only a portion of a former member’s DC account to a variable account, in which case a former member may elect to transfer part of the account to a variable benefit account. Otherwise, the entire amount credited to the former member will be transferred to the former member’s variable benefit account.

A spouse’s consent is required to establish a variable benefit account, unless the spouse is living separate and apart from the former member.

After the establishment of a variable benefit account, the retired member will receive a statement requiring the retired member to elect the amount to be paid during the calendar year, the method of payment and the frequency of payments, if the plan permits more than one payment per year. If the retired member does not make an initial election, the minimum amount will be paid. The retired member may be restricted to changing the election only once annually, but a pension plan may also permit a retired member to make more than one change annually.

The amount paid from a variable benefit account in a given year must be at least equal to the annual minimum amount set under the *Income Tax Act*, while the maximum amount that can be paid out in a calendar year mirrors the limits applicable to life income funds in Ontario.

For retired members with variable benefit accounts, the administrator must provide annual statements, including the amount and nature of the fees and expenses charged to the variable benefit account, if any.

#### Death benefits

A retired member's spouse who is not living separate and apart is entitled to the variable benefit account upon the retired member's death, unless the spouse waives the right to the death benefit. A spouse who was designated a specified beneficiary by the member has the right to continue to receive an income from the pension plan. A retired member and a specified beneficiary also have the right to designate a beneficiary who is not a spouse.

Upon the death of a retired member who was receiving variable benefits, a surviving spouse whom the member had designated as a specified beneficiary may elect to continue receiving variable benefits rather than a lump sum benefit.

The introduction of variable benefit accounts allows DC pension plans to offer Ontario members the option of receiving variable benefits in retirement directly from the pension plan. By providing this option, a DC pension plan can make the pension plan more attractive to members, offer lower investment management fees throughout retirement, and retain assets in the pension plan, potentially providing greater negotiating power with service providers. Pension plans are not required to offer variable benefit accounts to their members.

With the introduction of variable benefit accounts in Ontario, such accounts are now permitted everywhere in Canada except in New Brunswick and Newfoundland and Labrador.

## Asia Pacific

### Australia



#### Changes to the Superannuation Guarantee (Administration) Act 1992

The Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Act 2019 amends the Superannuation Guarantee (Administration) Act 1992 (SG Act) from 1 January 2020 to close a loophole used by some employers to reduce their super contributions for their employees.

The changes to the SG Act will prevent employers from counting any salary sacrifice contributions made by employees towards their statutory Salary Sacrifice and Superannuation Guarantee Contributions (SGC) when meeting minimum superannuation payment obligations.

In short, an employer must pay a minimum 9.5% of an employee's ordinary time earnings (OTE) as SGC.

### India



#### Insurance Regulatory and Development Authority (IRDA) makes some changes to Benefit Continuity when an individual moves from group to individual or family floater policy

As per the Health Regulations 2016, portability guidelines, Individual members, including the family members covered under any group health insurance policy of a general insurer or health insurer shall have the right to migrate from such a group policy to an individual health insurance policy or a family floater policy with the same insurer. Thereafter, the insured has the right to avail portability with any other insurer."

- Below coverages can be availed under Group Health policy by large corporate client's which was earlier an exclusion under the policy
  - HIV & AIDS coverage except STD - With increasing access to effective HIV prevention, diagnosis, treatment and care, including for opportunistic infections, HIV infection has become a manageable chronic health condition, enabling people living with HIV to lead long and healthy lives and insurers allowing to cover it under Group Health Policy.
- LGBT partners coverage
  - Insurers have decided to extend family health insurance coverage including live-in partners and LGBT (lesbian, gay, bisexual, transgender and queer) partners.

Only a handful of Indian companies have recently extended benefits to LGBT employees.

## Europe

### Croatia



#### Changes to health and life insurance benefits

As of 01 January 2020, the following changes are applicable:

- Voluntary health insurance (including supplementary and additional health insurance) will be non-taxable for employers up to 2,500 HRK per year per employee.
- The only condition is that the employer must arrange the policy for its employees, and it is not mandatory to offer the policy to all employees to receive the tax incentive
- Life insurance with saving component is also non-taxable for insured/beneficiaries effective 01 January 2020.

### France



#### Teleconsultation, a rising trend on the French health market, boosted by the recent strikes against the pension reform.

Following to the decision of the French social security in September 2018 to reimburse the teleconsultations, the government expected more than 500 000 demands of teleconsultation reimbursements. In September 2019, only 60 000 demands were submitted. However, since the beginning of 2020, this sector is meeting an impressive turmoil, favored by more than 45 days of continuous strikes against the government pension reform project. Some startups have seen the demands of teleconsultations increase by 50% in the past few weeks. The French population facing difficulties to find transports to go at work had the same issues when trying to see a doctor, and this has significantly increased the uptake of teleconsultations. This exceptional situation may have positive long-term impacts as the ease of use and access of teleconsultation is very convincing.

## Germany



### Company pension: introduction of a tax-free allowance

The law provides that the previous exemption limit of 155.75 euros in 2019 (2020: 159.25 euros), which applies to all pension payments, will be supplemented by an exemption amount of the same height only for pensions under the company pension scheme (direct commitment, support fund, direct insurance and pension fund).

- In accordance with the GKV-Betriebsrentenfreibetragsgesetz (Statutory health insurance company pension allowance law), as of 1 January 2020 only the amount exceeding the then applicable limit of 159.25 euros will be charged.

## Lithuania



### Changes to Personal Income Tax Law limits the tax advantage conditions for voluntary health insurance

On 3rd January, 2020 The State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania has publicly announced an updated comment on Article 17, 1 paragraph 14, 14-1 points of the Law on Personal Income Tax of the Republic of Lithuania, which tightens the tax advantage conditions for voluntary health insurance.

#### Main Changes

- The concept of health care services is clarified and new conditions for the application of personal income tax relief are introduced.
- Under the new requirements, the insured person's costs of health care may be reimbursed when:
  - the insured applies to a health care institution or a licensed person for health problems, medical conditions or in order to prevent illness, strengthen health, etc.
  - healthcare is provided by a person qualified to provide it;
  - the purpose of health services is to diagnose, care for and treat illnesses and disorders, to prevent them (prevention of illnesses, diseases), to help in the recovery and enhancement of health, as well as to provide services and material provision for the restoration of health.

Accordingly, health care includes the following services provided by an eligible person:

- diagnostics in a health care facility (laboratory, diagnostic tests and procedures, consultations (performed in licensed institutions, whether there is a doctor referral);

- treatment of diseases and disorders;
- non-surgical and surgical treatment, dental filling, prosthetics, oral hygiene, orthodontic treatment, other dental care, nursing care;
- nursing in case of illness and health problems;
- physiotherapy procedures, physiotherapy sessions, halotherapy, manual therapy, water and mud treatments, therapeutic massages etc.
- the purchase of medicines (prescription or non-prescription, with or without a doctor's prescription) from a licensed pharmacy or other licensed health facility;
- purchase of vaccinations, vitamins and supplements and medical aids / devices (inhalers, testers, hearing aids, blood pressure gauges, etc.) at licensed pharmacies or other licensed health facilities;
- purchase of corrective goggles, medical goggles for health purposes, contact lenses, and their care (disinfection) with the appointment of a health care professional (prescription);
- other health care services within the meaning of the applicable legislation which are provided by qualified persons.

Thus, the tax advantages for contributions paid by the employer for the benefit of the employee for supplementary (voluntary) health insurance applies when the healthcare is provided by hospitals, clinics as well as other public health services such as pharmacies, physiotherapy offices, dental offices, nursing homes, therapeutic massage rooms and other licensed institutions which are authorized to provide health care services.

If the health insurance agreement has conditions which states that in addition to health care (goods), other services / goods may also be covered, for the insurance premium paid for 'other services / goods' personal income tax relief is not applicable.

Other services/items listed below are not considered to be tax-exempt healthcare:

- sports classes at sports and health clubs;
- SPA treatments, cosmetic plastic treatments (surgeries);
- non-medicated massages;
- sunglasses not purchased for medical purposes without the appointment of a health care specialist, spectacle care accessories;
- purchase of cosmetics; and
- reimbursement of transport costs to / from a medical institution, including parking costs, taking children to school in the event of incapacity for work etc.

## Poland



### Second phase of the PPK enrolment becomes effective January 2020

#### Background

An Employee Capital Plan is a common method of group and long-term savings for a pension, designated for 12.3 million employees. It is a new mandatory Defined Contribution plan, under third pillar. The legal basis for a PPK is the Act of 4th October 2018. The entity which employs at least one person that is obligatorily subject to retirement pension and disability pension should establish PPK for its employees. The commencement of the program for the biggest employers took place, as of July 2019. About 3,500 companies already set up the PPK within their organizations. The smaller companies will have to enrol gradually. Should there be a delay in establishing PPK, the employer may be subject to a financial penalty of up to 1,5% of the corporate salary funds for the previous financial year.

#### Key Information:

As of January 1, 2020, the employers with at least 50, but not more than 250 employees must set up PPK. The program is based on the co-operation between employers, employees and the state. Employees between 18 and 55 years old will be enrolled automatically, the employees older than 55 years old must opt in. Each employee can opt-out, which means that for the employee the PPK is voluntary even though for the employer setting up of the plan is mandatory.

Employer's contributions*	Employee's contributions*	Surcharges from state
basis contribution: 1.5% additional contribution: max 2.5%	basis contribution: 1.5% additional contribution: max 2.5%	welcome payment: PLN 250 annual surcharge: PLN 240

\*calculation is made from gross salary

#### Important dates:

To be compliant with the new law, the employers from the second phase of the PPK enrolment must:

- select the financial institution
- sign the agreement with the selected financial institution by 24th of April 2020 the latest
- sign the agreement concerning management over PPK on behalf of the employees by 11th of May 2020 the latest
- pay first contributions once both agreements are in place.

## The abolishment of the Second Pension Pillar in 2020.

### Background

Poland finalizes the abolition of the second pension pillar this year. Currently, the Polish pension system contains of three pillars. The first pillar is mandatory and run by the Social Security Institution (ZUS), the second pillar is mandatory, and it is run by the private institutions (PTEs/ Open Pension Funds). Third pillar was voluntary till last year, but please refer to the above PPK note.

### Key Information

In 2020, the assets accumulated in the second pillar will be transferred to Individual Retirement Accounts, so called IKEs. IKE is a third pillar individual solution with no employers' involvement. Each second pillar member will have to decide whether to transfer the accumulated capital to the first pillar sub-account (ZUS) or to a third pillar (IKE). The assets will be transferred automatically to IKEs with a transformation fee of 15% of the total accumulated assets. If the participant does not wish to transfer money to the third pillar, there is a need to submit a declaration. At the time of payment of the pension from ZUS, the funds will be taxed at 18% or 32%.

### Important dates:

From June 1, 2020 to August 1, 2020, second pillar participants will have time to decide whether to transfer funds to ZUS and submit a relevant declaration. The model of the declaration will be specified by the Minister of Family, Labour and Social Policy. The IKE selection does not require any activity - the funds will be transferred automatically on November 27, 2020. According to information from the Ministry of Family, Labour and Social Policy the act regulating the above deadlines will be effective from June 1, 2020. The final wording of the act has not been disclosed and confirmed yet.

## Middle East & Africa

### United Arab Emirates



#### Dubai – DIFC Employee Workplace Savings plan set to incept as of 01 February 2020

- The Dubai International Financial Centre (DIFC) is introducing a new mandatory Employee Workplace Savings (DEWS) plan that will replace the current end-of-service benefit (EOSB) regime for foreign workers.
- The most important change will be the switch from the current defined benefit (DB) regime to a funded defined contribution (DC) regime.
- Originally announced to go live in January 2020, the launch date has been delayed one month, with a grace period ending 31st March 2020, for employers to enrol covered staff and commence contributions.
- Employers will have the option to offer a Qualifying Alternative Scheme (QAS) as an alternative to DEWS for funding the EOSB by applying for and obtaining permission from the DIFC Authority. Given the short time frames, most DIFC-based organizations will likely enrol under the proposed DEWS.

- Employers will have opportunities later to apply to opt out of DEWS in favour of an alternative QAS.
- DEWS will be a multi-employer master trust-based arrangement. Employers will be required to enrol all foreign workers in DEWS unless they already provide an approved QAS. Emiratis and other GCC nationals are exempt from the mandate but may participate voluntarily.
- Companies that have multiple entities in the DIFC will need to have separate DEWS accounts for each entity.
- Employers must contribute 5.83% of monthly base pay to DEWS (or a QAS) during the first five years of service, after which the monthly contribution increases to 8.33%. Employees may opt to contribute to DEWS voluntarily.
- Fees for DEWS will start at a minimum of 1.33% of plan assets for trust, administration and investment services, subject to periodic review.
- It is not clear if this includes all aspects within a Total Expense Ratio definition, and some funds offered may be more expensive (e.g., those that are Shariah-compliant).
- DEWS trustees will have a duty to develop a fee proposal by the end of the second anniversary of the DEWS launch date potentially amending how fees will be charged going forward (on a sliding scale) with regard to accumulated DEWS assets, including value for money and commercial benchmarking assessments. Service provider appointments (administrator, trustee, investment fund provider) will occur every five years, including a review of fees.
- DIFC companies will have an opportunity to opt out of DEWS in favour of a QAS by applying for and receiving approval during a 60-day period preceding February 1 every year.
- Subsequently, companies that have opted out using a QAS will be required to request and obtain a certificate of compliance annually for each QAS to which they contribute, during the 60 days prior to February 1.

### Abu Dhabi – Changes to compulsory medical plan

The Department Of Health (DOH) in Abu Dhabi – the compulsory medical insurance regulator - has issued new directives affecting the following compulsory medical schemes in Abu Dhabi and which take immediate effect as of 17th of February 2020:

*Members being cancelled must be covered for 30 days after their visa cancellation day. If the policy expires within the specified 30day period, coverage needs to be extended until the expiry date.*

As a result of this directive, insurers will no more accept backdated cancellations.

## Israel



### Prohibition of pension payments via a broker trustee bank account delayed by one year

In accordance with long standing regulations since May 2018, all entities holding a database which includes 'personal' data for individuals are required to register the database with the governmental Department of Justice. This applies to an employee database held in Israel.

The start of the regulations which prohibit the payment of pension plan contributions via a broker trustee bank account, originally effective from February 2020, have been postponed by one year. Consequently, payments via a trustee account will be prohibited from February 1, 2021 for employers of 100 or more employees and from February 1, 2022 for employers of less than 100 employees.

## Nigeria



### Nigeria's 2019 Finance Bill passed into law by the House of Representatives on 28 November 2019, reforming tax laws in Nigeria.

Nigeria's 2019 Finance Bill was passed into law by the House of Representatives on November 28, 2019. With a view to consolidating macroeconomic effects and help reduce budget deficits, The Finance Act seeks to amend various tax laws in Nigeria. It allows the government to draw more people and businesses into the tax net and increase its tax revenue base. The Act also fixes confusion around the 7.5% value-added tax (VAT), personal income tax, among other issues.

The Act has the following strategic objectives:

- Promoting fiscal equity
- Reforming domestic tax laws to align with global best practices
- Introducing tax incentives for investments in infrastructure and capital markets
- Supporting MSMEs; and
- Raising revenues for government

In addition, companies that provide composite insurance and reinsurance are required to increase their minimum paid-up share capital from Five (5) Billion Naira and Ten (10) Billion respectively to Eighteen (18) Billion Naira and Twenty (20) Billion Naira respectively.

The Policy was recently updated to reflect the composition of share capital to also consist of existing paid up share capital, cash payment for new shares issued, retained earnings, payment in kind for new shares issued as properties, bond etc and share premium. These can be achieved through merger and acquisition.

Other updates centre around, Escrow Account with CBN, Shareholders' Deposits, Statutory Deposits and Mergers and Acquisition



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