Executive summary

The latest amendments to South Africa’s Unemployment Insurance Contributions Act, 2002 were promulgated on 18 December 2017. These amendments have the effect that, from 1 March 2018, foreign nationals working in South Africa on a contract of employment and their employers are required to make contributions to the Unemployment Insurance Fund (UIF).

Detailed discussion

Background

Prior to 1 March 2018, both the employee and the employer were not required to contribute to the UIF, if the employee had entered South Africa for the purpose of carrying out a contract of service, apprenticeship or learnership within South Africa, and upon termination of the contract, the employer was required by law or by the contract, to repatriate that employee from South Africa.

However, from 1 March 2018, these employers and their employees will be required to contribute to the Fund. Both the employee and the employer are required to contribute 1% of the employee’s remuneration to the UIF each month. The contributions are currently limited to ZAR148.72 per month.
Where the foreign employee is remunerated by a local employer or where the employee’s remuneration is reported in a shadow payroll in South Africa, the payroll system should be updated to ensure compliance with the UIF contribution requirements.

Currently, where the foreign employees remain on the home country payroll, no employees’ tax withholding obligation is placed on the foreign employer, however, the foreign employer has an obligation to contribute to the Skills Development Levy and the Compensation Fund. Many foreign employers are unaware of these requirements or simply ignore these obligations as practically there is no process to facilitate the compliance.

The change in the legislation therefore, creates a further obligation on foreign employers who assign nonresident employees to South Africa. This new requirement may shift the focus of the authorities to the compliance by these employers with the existing and new obligations with respect to the statutory contributions.

Next steps

Employers who are employing foreign nationals should update their payroll systems to ensure compliance with the new contribution requirements for the UIF.

Employers who currently do not comply with their Skills Development Levy and the Compensation Fund contribution requirements with respect to foreign employees, should take note of the changes and be aware of potential challenges from the authorities in this regard. Such employers should assess the potential risk and, based on the findings, may wish to change their current operating model with regard to the assignment of employees to South Africa to mitigate any risk.

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