



## GES NewsFlash

# Bulgaria – Changes in the Tax and Social Security Legislation

January 13, 2010

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### Summary

The Bulgarian Parliament has introduced changes in tax and social security legislation, including reduction in the social security rates, tax refund opportunity for non-residents, and mandatory disclosure of monetary loans granted/received.

### Decrease in the social security rates

From 1 January 2010 the rate of the Pension Fund contribution is decreased by 2%. As a result, the overall rates of the statutory insurance contributions applicable for the most common 3rd labour category (i.e. nonhazardous working conditions) will be as follows:

- 12.1% for the employee (previously 13%);
- 16.9%-17.6% for the employer (previously 18%-18.7%).

At the same time the cap of the insurable income is left unchanged – BGN 2,000 (about EUR 1,023), but the minimum insurable income is raised.

#### Deloitte's View

Employers should take into account the reduced social security rates when preparing the 2010 payrolls to avoid overpayment of social security contributions, respectively underpayment of personal income tax as the employees' portion of the contributions is tax deductible.

### Refund of a portion of the withholding tax paid on a gross basis

From 1 January 2010 foreign individuals resident in the EU / EEA and meeting certain law requirements may be entitled to a refund of a portion of the withholding tax paid on the gross income for the calendar year. The types of income to which the refund will be applicable include:

- Interest
- Royalties

- Consultancy and other “technical” services fees
- Management fees
- Franchising and factoring fees
- Income from the lease of movable and immovable property
- Certain other income.

Eligible individuals will be able to claim a refund of the difference between the withholding tax paid on a gross basis and the tax which would have been payable for the same income under the general personal income tax rules (i.e. personal income taxation after applicable deductions). Only the portion of the tax that cannot be offset as a tax credit in the country of tax residence is refundable.

The individuals should apply for the refund through the annual personal income tax return filed by 30 April of the year following the year of the income receipt.

#### **Deloitte's View**

This amendment aims to eliminate discrepancies between the EU and the Bulgarian legislation concerning the EU basic freedoms. Applying the refund procedure and calculating the exact amount to be refunded might be a burdensome procedure. We can help you to consider the effect and provide assistance with the preparation and filing of the claim for tax refund.

#### **Disclosure of received/granted loans in the annual tax return**

With retroactive effect as of 2009 the Bulgarian tax residents should disclose in their annual tax returns the non-repaid portion of monetary loans:

- granted during the calendar year if the overall amount exceeds BGN 10,000 (about EUR 5,113);
- granted during the calendar year and the preceding 5 years if the overall amount as at the year-end exceeds BGN 40,000 (about EUR 20,452);
- received during the calendar year if the overall amount exceeds BGN 10,000 (excluding loans from credit institutions);
- received during the calendar year and the preceding 5 years if the overall amount as at the year-end exceeds BGN 40,000 (excluding loans from credit institutions).

In case of non-compliance, the law envisages a significant penalty (10% of the non-disclosed amount).

#### **Deloitte's View**

By implementing this requirement, the revenue authorities hope to counter the current practice of audited individuals justifying and concealing non-declared income through fake cash loans. Such disclosure should be made regardless of

whether the individual has received income taxable through the annual tax return or not.

Tax residents are advised to keep track of their loans granted/received and coordinate with the recipient (respectively the provider) of the loan the amounts to be disclosed in order to avoid any discrepancies and disputes with the revenue authorities.

## People to Contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals as follows:

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