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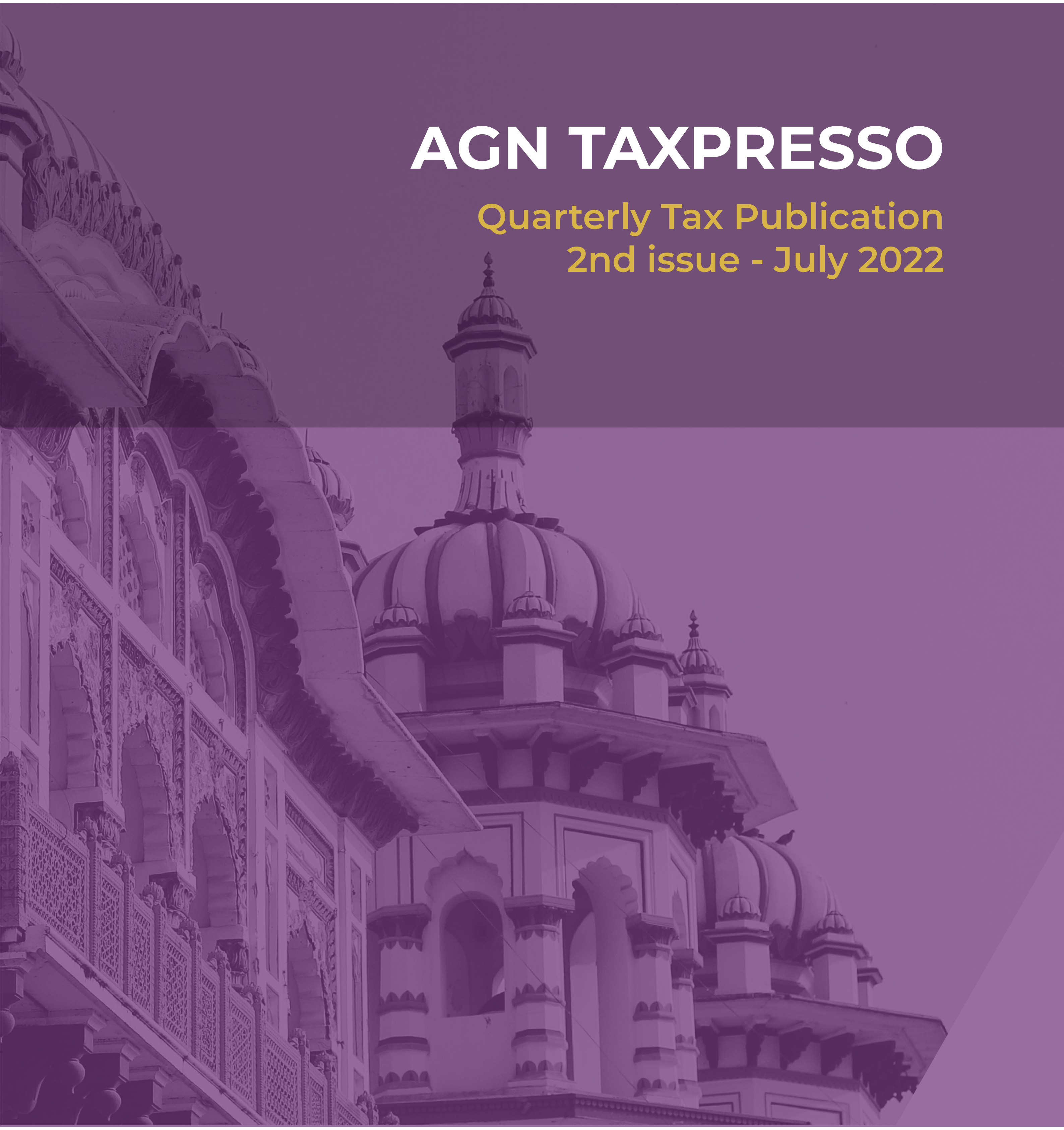

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NEPAL

NEPAL BUDGET HIGHLIGHTS (2022-23)

Focused on the election or the worsening economic indicators?

Nepal has reduced the existing minimum threshold of paid-up share capital for Foreign Direct Investment to Nepalese Rupees (NPR) 2 Crores (USD 165,000) from NPR. 5 Crores (USD 400,000). Moreover, the government has come forward to make provisions to allow the leasing of land for up to 50 years, and the government has initiated the arrangements to sell apartments to foreigners, which shows the intent of the government to attract more foreign investment in Nepal. Coming forward, the window period for getting the approval of the foreign investment above NPR. 10 Crores (USD 800,000) is reduced to seven days. To encouraging foreign investment, the government also plans to establish a hedge fund to mitigate the risk of foreign exchange fluctuations.

The budget appears to be highly focused on the benefits to general people looking into the upcoming parliamentary election in Nov-Dec 2022. The basic exemption limit of tax for natural persons has been increased to NPR. 500,000/NPR. 600,000. Other deductible limits of medical and insurance credit have been revised. The government is set to introduce the "Kisan Pension Scheme", similar to the retirement plan-provident fund or pension find. The government has announced to deposit 10% of the amount deposited by the farmers in the fund to increase the savings and retirement plan of the people engaged in the subsidized agriculture sector, where most of the population belongs. The government has also committed to paying up to 80% of the agriculture insurance.

The budget is aligned with the current economic scenarios of Nepal. The budget aims to reduce imports and improve the balance of payment which is worsening each year. Government offices are being encouraged to use domestic products. The budget plans to reduce the import of food and vegetables by 30% and introduce modern warehouses across the country to preserve the food produced within Nepal. The budget commits up to 8% cash subsidies to the export of cement, steel, footwear, and treated water products which are one of the major manufactured products in Nepal. Also, the government aims to set up the green ammonia-based fertilizers factories within the country, citing the huge import of fertilizers in previous years. The government has been focusing on the use of electric mobility. This budget has introduced a tax deduction of 40% for five years to the electric vehicle assembling factory. Several benefits and concessions are given to electric vehicles as the government wants to lower the import of fossil fuels.

In conclusion, the budget is balanced and focuses on the demands of the general people at large. The focus of government in "Going Green" is highly appreciable. But managing the sources of funds is always a challenge for Nepal. 30.9% of the budget is aimed to be raised through grants and foreign and internal loans. 21.2% of the budget is planned to be invested in the capital expenditure which is significantly low to achieve the growth target set by the government.

Compiled by CA Bimal Dhungel on 17 June 2022

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NEW ZEALAND
MIGRATION STRUCTURING

If you have clients who are considering a move to New Zealand (NZ), then one of the first things they are likely to ask you, is when will they be likely to be considered a NZ tax resident, and what will then be their NZ tax filing obligations in that regard?

At Gilligan Sheppard we have a small specialised tax team, and a fairly common engagement for us is preparing tax residency opinions, which cover amongst other things, commentary on when the person is likely to trigger a NZ tax resident status, how the provisions of any relevant Double Tax Treaty (DTA) agreement between NZ and the persons departure country may apply to the person, and what all these considerations may mean from a NZ tax filing obligation perspective.

Moving to New Zealand

So if your client is moving to NZ, either permanently or temporarily, then it is important for them to understand in advance, the NZ Inland Revenue's Department (IRD) taxing reach upon their arrival, particularly if they will continue to have income earning connections offshore, whether that be in relation to passive investments or active working engagements, either in an employee or self-employed capacity.

For those persons who have either been away from NZ for more than ten years, or who are coming to NZ for the first time, once a NZ tax residency status has been triggered, usually the person will qualify for the Transitional Tax Resident (TTR) regime – in essence a four year period where only personal services income (employment or contractor based) derived from foreign sources will be subject to NZ tax. A primary benefit of TTR is the ability of the person to come to NZ, get their bearings as to NZ's way of life, and then to have some time to decide how to structure the ownership of any offshore investments, in order to mitigate any tax see page exposures (increased global tax costs), should NZ at some point be able to tax the persons worldwide income.

New Zealand Tax Residency

NZ tax residents are potentially subject to paying NZ income taxes on their worldwide income. This means that the person is required to disclose all of their income in an NZ income tax return, regardless of where that money was earned or where it is kept (on-shore or off-shore). This is opposed to some taxing jurisdictions like Hong Kong or Singapore for example, which operate on a more territorial tax-based system, usually exempting from local taxes any income sourced from outside of the jurisdiction.

When considering the issue of NZ tax residency, it is important to understand that the person does not need to be a resident from an immigration perspective, including having any type of NZ visa in advance of triggering a NZ tax residence status. Instead, the existence of a NZ Permanent Place of Abode (PPOA), even if the person has retained a PPOA outside of NZ, or being physically present in NZ for a combined period exceeding 183 days in any 12 month rolling period (so not tied to a calendar or income year), can trigger a NZ tax residency status.

While the physical presence test is fairly black and white, you're either physically present in NZ or you are not, consideration of the PPOA test and its potential application to the person, can certainly have a fair amount of greyness surrounding it. And while the physical presence test can be more actively managed to ensure that the residency threshold is not crossed until you want it to be, just be careful with respect to any planned scoping visits to NZ in advance of the big move, and that these trips of usually short-duration, do not unexpectedly trigger an NZ tax residency status earlier than anticipated because you forgot to take them into account when booking your one way ticket.

On the PPOA aspect, firstly, the person will need to be seen to have an NZ abode available to them, and a common misunderstanding in this regard is that this NZ abode does not have to be owned by the person. Instead, it could be owned by another family member, by a family trust, by an unknown owner in a rental scenario, and even potentially in a hotel room (if the person stayed at the same hotel, in the same room, every time they came to NZ).

Once the person has satisfied the available NZ abode aspect, it's a question of the permanency of the person's connection with that NZ abode. Here, we will consider how often the person uses the NZ abode, the duration of the person's stay at the NZ abode and other connections to the abode – like other family members living at the abode, local club memberships and subscriptions, NZ mailing address and the like. Satisfying either of these two residency tests usually deems the person to commence being an NZ tax resident either from the date their NZ PPOA is established or the first day of their 183-day presence – whichever occurs first. Once an NZ tax resident, consideration needs to be given to such things as the TTR regime or the potential application of a DTA.

Additionally, if the person continues an employment relationship with a foreign employer, will the persons presence in NZ trigger any filing obligations for their employer, or if the person is a director of a foreign company, what implications may the persons NZ tax residency status have on the tax residency status of the foreign company.

Moving back out of New Zealand

Unfortunately, while it is relatively easy to trigger an NZ tax residency status, it is much harder to become a non-resident again.

Again, the NZ PPOA test is one of your first considerations, because as long as the person is deemed to retain a NZ PPOA then they will retain their status as a NZ tax resident, regardless of their period of time away from NZ. Absent the retention of a NZ PPOA, once the person is absent from NZ for more than 325 days in any rolling 12 month period, they will be considered to be a non-resident for NZ tax purposes, from the first day of absence within the 325 day period (note that any part day present in NZ is treated as a full day of presence.

Once a non-resident, it's important to appreciate that in most cases, NZ will retain a taxing right over any NZ sourced income, although that taxing right may be limited in some way via the application of a relevant DTA.

So, if you have a client looking to move to New Zealand, even if for a short period of time, we welcome the opportunity to have a chat with you in advance of their arrival to ensure that there are no nasty surprises in store for them, post the transition.

Compiled by Richard Ashby on 22 June 2022

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