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WHITE PAPER

June 2020

Equity Plans: Global Developments

This *White Paper* highlights select recent developments in certain countries that could have implications for employee equity plans offered by multinational companies to employees in such jurisdictions.

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ARGENTINA

Change in Exchange Control Regulations

Effective at the end of 2019, restrictions on Argentine residents' ability to purchase foreign currency for investment purposes have once again been imposed. Residents can now only access the Argentine foreign exchange market to purchase foreign currency from banks and other authorized financial institutions up to $200 per month for investment without Central Bank approval. In addition, a 30% tax applies to purchases of foreign currency by residents for savings and other purposes.

AUSTRIA

Withholding Wage Tax for Austrian Tax Residents

Effective as of January 1, 2020, foreign employers are required to withhold wage tax for Austrian tax residents who are taxed on worldwide income even if the employer does not have a permanent establishment in Austria.

Foreign employers are therefore required to register with the Austrian tax authorities, withhold tax on a monthly basis, and submit an annual wage statement to the tax authorities by the end of February of the year following the year of payment.

BRAZIL

Brazilian General Data Protection Law

Effective as of August 2020, the Brazilian General Data Protection Law will come into force. Under this new law, personal data will be protected regardless of the method of collection or storage. In addition, the law establishes the National Data Protection Authority to enforce its provisions.

IRELAND

Registration of Equity Plans

The procedure for employers filing Forms RSS1 in respect of employee share participation schemes has been revised. As was the case previously, employers must electronically file Form RSS1 by March 31 of each year. However, employers must now undertake an additional step of registering with the Revenue Online System that they have a share scheme reporting requirement.

ISRAEL

New Fast Track Ruling for RSU Tax Treatment

In the latter half of 2019, Israel introduced a new, faster ruling process for treating Restricted Stock Units ("RSUs") as initially taxable at vesting rather than at sale. The old process was seen as challenging and consequently was rarely used. To apply for the ruling with respect to unvested RSUs, a company must submit a prescribed form to the Israeli Tax Authority ("ITA") and the ITA will issue a ruling within 3-4 weeks. The ruling, however, cannot apply to RSUs that are granted under a tax-favoured Section 102 plan. If approval is received, the employer will have a withholding obligation at the time of vesting, but is not required to withhold on the sale of underlying shares.

New "Green Track" Rulings

New fast track processes have also been introduced to alleviate the double tax burden with respect to equity award income for mobile employees and the administrative burden of having a trustee hold shares under a Section 102 plan.

Typically, Israeli employers must withhold on the full amount of equity award income for a mobile employee even though income tax has been withheld in another country. Although a foreign tax credit can be claimed on an Israeli tax return, it may take time to receive a refund. In order to avoid double taxation, a company can apply for a ruling to take the foreign tax credit into account when computing the taxable income in Israel. A company may also apply for a fast track ruling so that, under a Section 102 plan, the Israeli trustee only needs to monitor compliance with the rules under Section 102, but does not need to hold the actual shares for the duration of the holding period. The non-Israeli broker can continue to hold the shares.

LITHUANIA

New Treatment for Stock Options

Legislation, effective with respect to stock options granted on or after February 1, 2020, has been passed that defers taxation of stock options until sale of the underlying shares received at exercise if the option is granted free of charge or below fair market value and does not vest earlier than three years from the date of grant. This same treatment should also apply to grants of restricted stock units if the minimum three year vesting period is imposed.

POLAND

Changes to Securities Laws

Effective for equity grants made on or after January 1, 2020, companies granting awards are generally required to either: (i) provide an information statement to the grantees at the time of grant; or (ii) notify the Polish securities regulators about the grant.

At this time there is still some ambiguity regarding the new securities laws, which hopefully will be clarified in formal guidance in the near future. We will continue to monitor the situation.

RUSSIA

Foreign Account Reporting

Russian residents are required to report transactions occurring on or after January 1, 2020, involving accounts outside of Russia (including brokerage accounts for equity plans). These transactions must be reported by June 1, 2021, to the Russian tax authorities. In addition, overseas accounts opened after January 1, 2020, must also be reported to the Russian tax authorities.

SERBIA

New Tax Treatment for Stock Options

Effective in late 2019, options and RSUs are treated as taxable at sale (at capital gains rates) if the shares received upon exercise or vesting are held for two years following receipt. If the shares are subject to taxation at sale, there is no withholding obligation for the employer.

If the shares are treated as taxable at exercise or vesting because the holding period requirement is not met:

1. if the local employer bears the costs of the awards, the local employer is responsible for reporting the taxable event and paying salary tax within 30 days of sale; and
2. if the costs of the awards are not recharged to the local employer, only the employee is responsible for reporting and paying the applicable income tax.

Taxation will not be deferred until sale if (i) the employer or parent company repurchases the shares; or (ii) employment terminates prior to the second anniversary of vesting unless the termination is due to one of a number of specified reasons including retirement and disability.

THAILAND

Thailand's Personal Data Protection Act ("PDPA")

Effective as of May 27, 2020, the PDPA will cover the collection, use and transfer of personal data. Among other things, the PDPA requires organizations to implement appropriate security measures, notify of any data breaches, facilitate the exercise of rights of individuals relating to their personal data, and respect heightened requirements for sensitive personal data.

UNITED KINGDOM

HM Revenue and Customs ("HMRC") Reporting of Net Settlements

HMRC has issued guidance relating to the reporting of net settlements. Starting with the 2019-2020 tax year, companies that use net settlement upon a taxable event must report the actual number of shares acquired separately from the receipt of a cash payment that represents the shares withheld to cover taxes owed.

New National Insurance Contributions ("NICs") Threshold

Effective as of April 6, 2020, the annual threshold for employee NICs increased from £8,632 to £9,500 and the annual threshold for employer contributions increased from £8,632 to £8,788.

VENEZUELA

Wealth Tax Update

In mid-2019, Venezuela introduced a wealth tax, which is assessed on a number of items, including shares held by individuals in Venezuela with a net worth of more than Bs 7.5 billion (approximately £30,172 or $37,971). The wealth tax rate is 0.25% of the value of the shares, and the tax is assessed every September 30.

LAWYER CONTACTS

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