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Global Reward Update

Canada Revenue Agency Update – Taxation of RSUs
May 2021

Background

The Canada Revenue Agency (CRA) has issued new guidance with respect to the taxation of restricted stock units (RSUs). Unless specific facts and circumstances support a different position, the guidance states that RSUs must be valued at grant and treated as being granted for services provided in the prior year, especially if the grant is made at the beginning of the tax year. This change in position from the CRA could alter the historic tax treatment of RSUs in Canada and could accelerate the tax point of these awards. This would apply to local Canadian employees as well as any internationally mobile employees who are currently in Canada or have been in the past.

For employees that have been granted RSUs that can either be settled in cash or shares, or a combination of both, this change in position may result in the RSUs being no longer compliant with the salary deferral arrangement (SDA) rules, and so may trigger unintended tax consequences. In addition to the adverse personal tax implications, this will also directly impact the corporate tax deduction and employer reporting, as well as the financial reporting associated with these awards.

For international assignees, allocating a value at grant to the services rendered in a period before the grant date may directly impact the taxable amount in all relevant jurisdictions and could trigger double taxation. This will also increase the complexity in properly assessing the corporate tax and employer reporting related to such RSUs.

Deloitte's view

To avoid unintended consequences, it is recommended that:

- Share plans are reviewed to ensure, where appropriate, that documentation is in place to support a position that the RSU awards can be distinguished from CRA's general guidance in order to be exempt from the SDA provisions.
- The sourcing allocation for international assignees should be reviewed to ensure reasonable assumptions are used in quantifying the employment benefit realised by employees in relation to their Canadian assignment.
- Given the CRA has made a number of changes in this area, companies should review their RSU plans alongside the proposed changes to the taxation of stock options (see our previous GRU here).
- Companies assess any adjustments required to optimise the global tax implications of incentive plans (e.g. corporate tax, transfer pricing, and employment tax) and, potentially, share plan financing. This will assist in ensuring incentive plans provide the desired outcomes for all stakeholders.

Who to contact

If you would like to discuss this further, or have any questions, please speak to your usual Deloitte contact or any of the contacts listed below:

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