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Global Reward Update

Greece: tax favorable treatment for shares acquired under stock option plans

Key points to know

- New tax laws effective January 2020 introduce preferential tax rates for benefits earned under stock option plans, if certain conditions are met.
- Benefits earned from the exercise of stock options which are held for a period of at least 24 months will be subject to capital gains tax rather than income tax.
- Different rules apply for benefits earned from stock options granted over unlisted shares of new small start-ups. In this case, the holding period is 36 months and the rate of tax is 5%.
- Further clarification is expected from the Ministry of Finance on many areas of the new law; including whether this would apply to other forms of equity compensation (e.g. free share awards).

Background

Effective 1 January 2020, the Income Tax Code (ITC) introduces changes to several tax provisions, including the taxation of stock option plans.

Any gains made on the exercise of stock options granted to an employee, partner or shareholder will only be treated as a benefit in kind if the participant disposes of the shares within 24 months of acquisition. The relevant period is 36 months in the case of unlisted shares of newly established start-ups. It is currently not clear whether this period starts on the date of grant of the option or on the exercise and acquisition of the shares.

If considered a benefit in kind, the gain on exercise would be taxed as employment income at progressive tax rates from 9% to 44%, plus special solidarity tax.

Any capital gain made from the subsequent disposal of shares would be subject to tax at a flat rate of 15% subject to certain conditions (or 5% for unlisted shares of new small start-ups).

However, if the shares are transferred more than 24 (or 36) months, then the benefit in kind from stock options will not be considered employment income. Instead any gain arising will be considered a capital gain taxed at a flat rate of 15% (or 5% for unlisted stock of new small start-ups) plus special solidarity tax.

Further clarification from the Ministry of Finance in relation to the application of this new position to free share awards, as well as its applicability to options and awards already granted is expected in the new year.

Cash settled awards

If share options are settled in cash, the cash amount paid to the employee is considered taxable income. The lower tax rates applicable to share settled options would not apply.

Employer withholding and reporting obligations

There is no obligation for the employer to withhold income tax in relation to share settled awards.

However, if the awards are settled in cash, tax withholding and reporting will be required.

Further clarifications from the Ministry of Finance are expected with regard to the reporting obligations that employers may have after the recent amendments in the ITC.

Social security

Social security contributions are due on any type of employment income, either in cash or in kind. Any gains made on the exercise of stock options which constitute taxable income remain subject to social security, subject to the relevant thresholds.

People to contact

For assistance with this matter, or any other issue related to the operation of your global rewards plans, please contact your local Deloitte global rewards adviser or email us at **globalequity@deloitte.com**, and a global rewards adviser will contact you.

Deloitte view

Companies may want to consider providing employees with general guidance on the changes set out above.

However, given the lack of clarity around a number of points, employers may want to wait until further guidance is issued before formally updating any employee communications.