Global Watch

International Assignment Services

August 24, 2011

Ireland

Share Scheme Developments

PwC International Assignment Services Network

PricewaterhouseCoopers International Assignment Services (IAS) is a special practice unit of tax professionals who spend 100% of their time with consulting and compliance issues for international assignees. If you have any questions concerning this Global Watch, or would like further information concerning our IAS capabilities, please contact William Owens, IAS Leader at +1 (704) 347-1608.

This Global Watch does not provide a comprehensive or complete statement of the taxation law of the countries concerned. It is intended only to highlight general issues which may be of interest to our clients.

For issues relating to this Global Watch please contact your local international assignment services advisor.

In Brief

The Irish Minister for Social Protection has released a statement relating to the **Employee PRSI** charge on share based remuneration. The statement confirms:

- For 2011 only, an employee PRSI exemption will remain for share awards delivered in 2011 which were the subject of written agreements prior to January 1, 2011;
- Employee PRSI will apply to all share based remuneration from January 1, 2012 onwards, regardless of when written agreements were entered into; and
- The process by which PRSI already paid for 2011 (employer and employee) may be reclaimed.

The statement represents a window of opportunity for companies to settle certain share awards before 2012 so that employees are not faced with this additional liability. Furthermore, option holders may wish to consider whether they might exercise certain subsisting options before 2012.

Background to Employee PRSI charge

On March 18th, a provisional announcement was made confirming no charge to employee PRSI on share based remuneration would apply if the award was the subject of a written agreement, entered into between the employer and the employee, before January 1, 2011. Today's statement looks forward to 2012 but unfortunately, it removes the exemption for all share based remuneration from the 2012 tax year onwards.

This is irrespective of whether written agreements evidencing the share awards were entered into before or after January 1, 2011. The only exception will be shares already held in an Irish tax approved Employee Share Ownership Trust (ESOT) before January 1, 2011, an exemption that will have limited application in practice.

Employers now have until December 31, 2011 (four months) to meet subsisting share award obligations granted pre January 1, 2011 before an employee PRSI charge will apply on delivery of the shares.

Claiming PRSI refunds

Where either employee PRSI (on pre-January 1, 2011 grants/awards) or employer PRSI has been remitted during 2011, refunds can be offset against current PRSI liabilities through the monthly employer PAYE withholding system (i.e. P30/end of year P35 returns). PRSI refunds may not be offset against income tax or universal social charge liabilities.

This refund process may not be used if it involves former employees, certain low paid staff or employees with breaks of service in 2011. Applications for refunds in those circumstances must be made directly to the social security authorities after December 31, 2011.

Further information

Legislative measures to give effect to these changes are to be included in the next Social Welfare Bill. We will continue to monitor developments in this area, including the wider tax issues associated with share schemes generally, over the coming weeks. Our dedicated webpage (www.pwc.com/ie/sharebasedreward) will be updated as further information emerges which may impact employee share schemes. We also attach a summary matrix setting out what today's statement means in practice for different classes of share awards.

The Bottom Line

For the avoidance of doubt, the announcement reiterates earlier statements which confirmed an employer PRSI exemption remains for share based remuneration. This is good news for employers and is consistent with the Irish government's stated objective of helping businesses maintain and indeed increase employee numbers.

In the meantime if we can be of any further assistance particularly with regard to potential benefits available in delivering share awards between now and December 31, 2011, please get in touch with any of our PwC Share Scheme Group listed below or your normal PwC contact.

Employee PRSI charge on share based remuneration

Category of award	Relevant date for evidence of award/grant	Is Employee PRSI due?		
		2010	2011	2012
All share awards (approved & unapproved)	(a) Written agreement in place pre-Jan 1, 2011	No	No	Yes
	(b) No written agreement from pre-Jan 1, 2011	No	Yes	Yes
All share options (approved & unapproved)	(a) Written agreement pre-Jan 1, 2011	No	No	Yes
	(b) No written agreement from pre-Jan 1, 2011	No	Yes	Yes
Employee Share Ownership Trust (ESOT) shares	(a) Shares lodged pre-Jan 1, 2011	No	No	No
	(b) Shares lodged from Jan 1, 2011 onwards	N/A	Yes	Yes

Note: The above refers to the employee's 4% PRSI charge only. Employer's PRSI does not apply to share based remuneration.

For more information, please do not hesitate to contact:

Gearóid Deegan	*+353 (0) 1 792 6468*	*gearoid.deegan@ie.pwc.com*
Pat Mahon	*+353 (0) 1 792 6186*	*pat.mahon@ie.pwc.com*
Liam Doyle	*+353 (0) 1 792 8638*	*liam doyle@ie.pwc.com*
Anne B Murphy	*+353 (0) 1 792 8628*	*anne.b.murphy@ie.pwc.com*
Eimear O'Loughlin	*+353 (0) 1 792 6375*	*eimear.oloughlin@ie.pwc.com*

This document is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

SOLICITATION

© 2011 PricewaterhouseCoopers LLP. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers LLP, a Delaware limited liability partnership, which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity.