

United Kingdom: New rules on the taxation of equity remuneration for internationally mobile employees

December 11, 2013

In brief

On December 10, 2013, the UK Government published the draft Finance Bill for 2014. The draft legislation enacts a recommendation of the UK 'Office of Tax Simplification' that the tax treatment of all employment-related securities (including options, Restricted Stock Units and restricted shares) should be consistent for internationally mobile employees. The new legislation subjects the portion of any such award that relates to workdays in the UK to UK tax. Although it is a welcome announcement for proponents of a simpler tax system, the draft legislation may result in additional costs for individuals and corporations.

In detail

The UK tax rules that apply to employment-related share options and restricted shares for internationally mobile employees are to be changed to bring them in line with the tax treatment of general earnings from September 1, 2014.

Current anomalies

The current rules can result in two main anomalies:

1. Often, no UK income tax is payable on remuneration in respect of duties of an employment performed in the UK because an employee was non-resident when a share option or restricted share was granted.

2. UK income tax is payable in respect of a period of non-residence where an employee was UK resident at grant and performs duties in a country where no double taxation treaty exists.

New position

The new legislation defines a 'relevant period' for employment-related securities granted to internationally mobile employees and splits this period (typically grant to vest) between that which is chargeable to UK tax and that which is potentially outside the scope of UK tax.

The UK chargeable portion of the securities income will be determined on a 'just and

reasonable' basis and will bring within the scope of UK income tax an amount broadly attributable to the relevant period spent working in the UK.

The rules will apply to all acquisitions on or after September 1, 2014 (with the exception of share acquisitions in relation to share options granted before this date).

Related changes

The Corporation Tax (CT) relief available for share awards will also be changed such that the CT deduction mirrors the amount chargeable to income tax.

A further change allows employers up to 90 days after the end of the tax year (instead of 90 days from the taxable event) to recover from employees any tax paid on their behalf on notional payments (such as shares). After the 90 day period the tax paid on an employee's behalf is treated as the employee's taxable earnings.

The takeaway

The draft legislation is a welcome announcement for proponents of a simpler tax system, but may present

additional costs for individuals and corporations in certain situations.

Compensation and payroll professionals at companies which use employment-related securities will need to amend systems and processes to track the taxable UK portion of awards.

Employers may also wish to update and amend existing employee communications to reflect the changes. This is particularly the case where individuals may be under the

impression that share options granted when they are non-resident in the UK may not be subject to UK tax if they are resident at vest.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact the following representatives from PwC UK:

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