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Global Rewards Updates: Chile: Changes to the taxation of stock options

Background

The Chilean government is currently making significant amendments to the corporate and personal tax regimes in Chile.

These amendments include changes to the tax treatment of stock options, which were outlined in a recent ruling issued by the Chilean Internal Revenue Service (IRS). No changes have been proposed to the taxation of other types of employee incentive awards.

These changes are due to come into effect on 1 January 2017.

New stock option regime

Currently, the tax treatment of stock options in Chile is unclear, although income tax would generally be due at exercise.

Under the new rules the taxation of stock options is set to change as follows:

Taxation at grant: For stock options granted on or after 1 January 2017, a tax charge will arise on the date of grant.

The ruling outlines that the amount subject to tax at grant will be the benefit value less any payment made by the individual (at grant) to acquire the stock options. The term benefit value has not been defined.

Given that these changes will come into effect on 1 January 2017, we expect that the Chilean IRS will issue further guidance regarding how the benefit value should be calculated ahead of this date.

Taxation at exercise: On the date of exercise, a further tax charge would arise, which would capture the increase in value from the date of grant to exercise.

The amount subject to tax would be the book value/FMV less the sum of any exercise price paid and any amount previously subject to tax at the date of grant. The terms book value and FMV have not been defined, but are generally the market value of the underlying shares at the date of exercise.

Taxation at sale: When individuals sell shares acquired through the exercise of stock options, the amount subject to tax at sale would be the sale proceeds less the sum of amounts previously subject to tax at grant and exercise. There are no obligations for the company in relation to the sale of shares.

Deloitte's view

These changes will significantly impact the taxation of employee stock options in Chile. It will be important for employers to keep these changes in mind when making future grants of stock options to Chilean employees. Particular attention should be given as to how employees will fund any tax due at grant and to ensure that employees are familiar with any payment and reporting obligations.

We expect further guidance to be issued by the Chilean IRS during the course of this year in order to clarify the practical application of these changes, prior to them coming into effect on 1 January 2017.

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