

Global Employer Services (GES)

Global Rewards Update: India – Tribunal decision on the apportionment of stock option income

June 2013

Background

A case went before the Delhi Tribunal regarding the tax treatment of the gain made on the exercise of stock options by an Indian Resident (but not Ordinarily Resident) individual.

This case was about an individual who was only resident in India for a portion of the period between the grant and vesting of the option.

There is no guidance in the current tax law which sets out whether the entire gain should be treated as Indian-sourced income, or whether it can be apportioned.

Ruling of the Delhi Tribunal

The Delhi Tribunal ruled that only the portion of the stock option gain relating to the period of services rendered in India during the grant to vest period would be taxable in India.

Action

This ruling supports our previous understanding of the treatment that should be applied to stock options for individuals that are Resident but not Ordinarily Resident at the tax point in India. There is no immediate action for companies.

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 consulting services adviser or email us at globalequity@deloitte.com and a global rewards consultant will contact you.

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