



Global Rewards Update

Luxembourg – New reporting for employee share option plans

Background

On 28 December 2015, the Director of the Luxembourg tax authorities issued an administrative circular relating to a new reporting requirement for employee share option plans. This circular applies to all share option plans that will be implemented as of 1 January 2016 but there will also be new reporting requirements for share option plans implemented prior to this date.

Impact

Historically, there have been no specific legislative rulings in Luxembourg regarding reporting requirements for the implementation of a new share option plan, or the granting of options under an existing plan. Only one administrative circular was issued in 2012 in order to define the tax treatment to apply to options (“2012 circular”).

The new circular released on 28 December 2015 (“2015 circular”) does not modify the principles of taxation set by the 2012 circular, but merely introduces a new reporting requirement. The 2015 circular applies solely to share options (this includes “warrant plans” used by some Luxembourg companies). Other award types such as restricted share awards or performance share awards are outside the scope of the new circular.

As from 1 January 2016, employers who intend to set up new share option plans will have to notify the Bureau RTS at least two months before the implementation date of the plan.

The reporting obligations apply when beneficiaries, i.e. individuals employed by an employer located in Luxembourg, are granted options either by their local Luxembourg employer or by the foreign parent company.

The notification to the tax office should include a copy of the plan rules in addition to a list of the names of the beneficiaries.

The 2015 circular additionally applies to each new grant of options, whether the first grant in a new plan or a new grant under an existing plan implemented before 2016. The notification must also be provided at least two months prior to grant.

Furthermore, for all plans set up prior to 1 January 2016, but for which the grant of options has not yet taken place, employers must inform the tax office of the existence of these plans at their earliest convenience.

Deloitte's view

It is important for employers to consider this change in a timely manner in order to avoid any potential delay in the granting of share options. Luxembourg employers will still be required to consider their reporting obligations even where options are granted by another company in the group.

Contacts

For assistance with these issues, or any other issue related to the operation of your global equity plans, please contact your usual Deloitte adviser or email us at globalshareplans@deloitte.co.uk, and an adviser will contact you.

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