



Global Reward Update

Netherlands - Favorable tax treatment of stock options for employees of innovative start-ups

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Overview

The 2017 Tax Plan, approved by votes in both the Dutch Lower and Upper House, will impact the stock option regime and aspects of personal taxation beginning 1 January 2018.

The new law aims to provide start-up companies with more flexibility in rewarding employees, and also allows those

companies to offer lower fixed salaries, leading to cost savings. For UK companies which have a Dutch subsidiary that undertakes R&D, there is an opportunity for tax advantages for share options granted to employees subject to taxation in the Netherlands.

Main Changes

Favorable Tax Treatment of Stock Options

Beginning on 1 January 2018, 25% of the gain from exercise of a stock option will be considered non-taxable in the Netherlands, on up to EUR 50,000 of stock option gains.

Therefore, the maximum amount of tax-exempt stock option gain per year is EUR 12,500. This favourable treatment is only available if the required conditions are met.

Employees could begin to benefit from the favourable treatment in January 2018 if the first stock option grants are made between January 2013 and January 2017, respecting the 12 month to five years period between grant and exercise.

Required Conditions

No special statement or agreement should be needed upon grant of the options to indicate that the awards are designed to fall within the favourable tax regime. However, the favourable tax treatment of share options is subject to the following criteria:

- The Dutch employer must be granted a valid "R&D declaration" in the year in which the options were granted. Based on our interpretation of the proposed legislation, the employer is the Dutch tax agent, though the shares may be granted by a UK company as long as the Dutch company is made aware of the grant;
- The individual must exercise the stock option at least 12 months after the grant date and no later than 5 years after the grant date; and

- The favourable treatment can only be claimed if the EU-legislated “de-minimis ceiling” for state-aid is not exceeded on an individual-by-individual basis.

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Deloitte’s view

For innovative start-up companies with R&D in the Netherlands, the proposed favourable tax regime presents an argument to select an employee stock option plan over other equity plans when implementing long-term incentives.

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