

## Global Rewards Update: Spain – changes to the taxation of employee share plans

September 2014

### Background

The Spanish government presented a draft tax reform package that proposes changes to a broad range of tax matters, including the taxation of share awards and share options.

Subject to final approval, the changes affecting share plan awards would apply to awards granted on or after 1 January 2015. A transitional regime may apply in some cases (as described below) to share awards which vest, or share options which are exercised, after 1 January 2015, but which were granted prior to this date.

### EUR 12,000 exemption

Current legislation allows a tax exemption on the first EUR 12,000 of income realised from share settled compensation, if the following requirements are met:

- the offer is made as part of the general remuneration policy of the company, or of the group;
- each employee, together with his/her spouse or relations (up to the second degree), does not hold a direct or indirect stake in the company or in any other of the group of companies, which exceed 5% of the capital stock of the company; and
- the employee holds the shares for at least three years following the acquisition date.

The recently proposed legislative changes intend to remove the availability of the EUR 12,000 exemption.

### Reduction of taxable income

In addition to the EUR 12,000 exemption, under current legislation a reduction of 40% could be applicable on taxable income, if that income is considered to be "irregular income". This is applicable when the following conditions are met:

- the income has been generated over a period of more than two years (e.g. there is a vesting period of at least two years); and
- the income is not obtained on a periodic or recurrent basis (e.g. income must not be obtained annually under a set vesting schedule).

There is a limit of EUR 300,000 per annum on employment income which can be subjected to the tax reduction.

The recently proposed legislative changes would affect the basis on which the reduction applies, but employees would still be able to apply the reduction, although the reduction would be of 30% (instead of the current 40%). In

order for the reduction to be available, the following conditions will need to be met:

- The income subject to the reduction must be received by the employee in the same tax year.
- The requirement that the income is not obtained on a periodic or recurrent basis would no longer be applicable. Instead, the reduction would be applicable only if the individual has not applied the reduction within the preceding 5 years.
- A transitional regime may apply to awards granted before 1 January 2015 but vesting/being exercised more than two years following the date of grant (and provided the awards were not recurrent). Under the transitional regime, the reduction may apply even if the participant had obtained other income generated over more than two years, which had already benefited from the reduction.

### Deloitte view

It is important for employers to consider the potential impact on their Spanish withholding tax obligations, since under the new tax legislation income that is not currently taxable will fall within the scope of taxation.

Employers should review the share awards/options provided to employees working in Spain, and where possible structure awards to benefit from the taxable income reduction. This can reduce the cost of receiving share awards to employees (or employers, where tax equalisation or tax protection policies are in place).

### People to contact

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](mailto:globalshareplans@deloitte.co.uk), and an adviser will contact you.

This Global Rewards Update information is also included in our biweekly GES newsletter, *Global InSight*, which you will receive directly if you are on the central distribution list.

If you are not on the central distribution list and received this communication by some other means, you can follow these few simple steps to be added to the central distribution list:

- Go to the **Deloitte Subscriptions Page** on Deloitte.com.
- Fill out your contact information.
- Make sure that, under Email Newsletters, "Global InSight" (which is under the Tax heading) is selected and click "Save Profile."
- Be sure to visit us at our website: [www.deloitte.com/tax](http://www.deloitte.com/tax).

---

[Home](#) | [Security](#) | [Legal](#) | [Privacy](#)

© 2014 Deloitte LLP. All rights reserved.

This communication is from Deloitte LLP, a limited liability partnership registered in England and Wales with registered number OC303675. Its registered office is 2, New Street Square, London EC4A 3BZ, United Kingdom. Deloitte LLP is the United Kingdom member firm of Deloitte Touche Tohmatsu Limited ("DTTL"), a UK private company limited by guarantee, whose member firms are legally separate and independent entities. Please see [www.deloitte.co.uk/about](http://www.deloitte.co.uk/about) for a detailed description of the legal structure of DTTL and its member firms.

This communication contains information which is confidential and may also be privileged. It is for the exclusive use of the intended recipient(s). If you are not the intended recipient(s), please (1) notify [it.security.uk@deloitte.co.uk](mailto:it.security.uk@deloitte.co.uk) by forwarding this email and delete all copies from your system and (2) note that disclosure, distribution, copying or use of this communication is strictly prohibited. Email communications cannot be guaranteed to be secure or free from error or viruses.

To the extent permitted by law, Deloitte LLP does not accept any liability for use of or reliance on the contents of this email by any person save by the intended recipient(s) to the extent agreed in a Deloitte LLP engagement contract.

Opinions, conclusions and other information in this email which have not been delivered by way of the business of Deloitte LLP are neither given nor endorsed by it.

 **Deloitte RSS feeds**