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Global Employer Services (GES)

GES NewsFlash

Ireland — Changes to employer withholding obligations for equity awards

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Further changes to withholding obligations

Employer withholding obligations on equity awards were first introduced in Ireland on 1 January 2011. Due to the short time frame in which these provisions were rolled out, a number of practical and policy issues have emerged that require amendments to these obligations. Previous amendments have dealt with issues such as the introduction of a full employer social security exemption on the majority of equity awards. The latest amendment relates to an employer's withholding obligations for employee social security with respect to stock options.

Social Security (PRSI) withholding obligations with respect to stock options

Effective 1 July 2012, the general obligation of employers to withhold employee PRSI on gains realized on the exercise of stock options has been removed.

Beginning 1 July 2012, the current obligation of employees to account for income tax and the universal social charge (USC) within 30 days of the share option exercise has been extended to also cover PRSI. In order to facilitate payment, the Irish Revenue's Relevant Tax on a Share Option (RTSO) system has been updated to clearly show that employee PRSI should be accounted for under that system.

Although this amendment should be welcomed, it is not as all-encompassing as it may seem. Employers must still account for PRSI on gains realized under tax-favored Save As You Earn (SAYE) option plans for all participants who continue employment after they exercise share options under such plans. Former employees who realize gains on the exercise of SAYE share options are obliged to account for employee PRSI personally, via the Department of Social Protection's Special Collection System.

It should be noted that the treatment outlined above specifically relates to stock options. Share awards such as RSUs, etc., are subject to separate withholding obligations that require employers to withhold income tax, USC, and employee PRSI on vesting. Withholding obligations with respect to share awards that vest to former employees are the subject of ongoing discussions with the Irish Revenue.

Deloitte's view

This amendment should be welcomed, as it removes the dual reporting and account obligations which had been in place for options prior to 1 July 2012, eliminating much of the confusion from the process. The amendment does not mark the end of the process, as Deloitte Ireland are currently making representations on a number of unresolved issues in respect of equity awards, which we hope to be able to provide further updates on, in the near future.

Actions

- Employers need to reexamine their payroll reporting process to ensure that employee PRSI is no longer accounted for on share option exercises, except for tax-favored SAYE option plans.
- Employers should review all employee communication channels to ensure employees are fully aware of their increased personal obligations.

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