TAX TREATMENT OF RESTRICTED STOCK

NEW ZEALAND

	EMPLOYEE	EMPLOYER
GRANT DATE	Restricted Stock (RS): The taxing event occurs when the employee obtains ownership rights to the shares. This will depend on the details of the scheme and could be the grant date or date of vesting of the restricted stock.	Restricted Stock (RS): A corporate tax deduction is only available where the New Zealand employing company incurs a genuine loss or outgoing in connection with remunerating its employees. Recharge arrangements should be properly documented.
VESTING DATE	Restricted Stock Unit (RSU): Upon the vesting of restricted stock units, income tax is due on the fair market value of the shares.	Restricted Stock Unit (RSU): A corporate tax deduction is only available where the New Zealand employing company incurs a genuine loss or outgoing in connection with remunerating its employees. Recharge arrangements should be properly documented.
WITHHOLDING & PAYMENT OF TAX	The employee will be required to pay the income tax to the tax authorities. The tax liability can be paid as terminal tax. However, provisional tax payments may be required to made on account depending on whether the employee exceeds certain thresholds to fall within the provisional tax regime.	The employer is not obligated to withhold income tax on the grant of restricted stock or vesting of restricted stock units. However, from 1 April 2017 employers can elect to pay PAYE on equity awards to ensure employees are not subject to provisional tax.
SOCIAL SECURITY	No employee social taxes are due.	No employer social taxes are due.
REPORTING	The fair market value at grant for the restricted stock or vesting for restricted stock units less any amount paid by the employee for the restricted stock or restricted stock units must be included as other income on the individual income tax return. Ownership in the shares in a company resident in a foreign country may be subject to Foreign Investment Fund (FIF) income on an annual calculation.	From 1 April 2017 employers are required to disclose to Inland Revenue the fair market value of equity awards made to employees on a monthly basis. This requirement does not apply to qualifying schemes.

For further information and to register for future updates contact:

globalequity@bdo.com

Defined terms used in this summary:

Restricted Stock - Issued shares transferred to employees on the date of grant which are typically subject to restrictions on sale or forfeiture for example if performance targets are not met.

Restricted Stock Units – Awards where employees receive a right to acquire shares. Shares are only issued following vesting and attainment of performance targets, if applicable.

This summary has been prepared on the basis that employees are resident in New Zealand throughout the period from grant of stock awards until the shares are sold and that the employee is employed by a local employer in New Zealand, which is a subsidiary of an overseas parent. The potential tax consequences may vary greatly depending on your company's equity plan's design, administration, as well as many other factors.

Should you have a need for a trusted advisor in this area, please contact BDO's Global Equity team.

This information is current as of August 2016.

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NEW ZEALAND

	EMPLOYEE	EMPLOYER
SALE OF SHARES	The tax position is determined by the employee's intention at time the shares are acquired. The gain should be tax-free provided the shares are not acquired with the purpose of disposal (i.e. they are acquired for long-term investment) or as part of a profit making scheme. Otherwise, the full gain is taxable at the employee's marginal rate. For shares which are in overseas companies the above general rule is modified by the FIF regime. The FIF regime generally requires an investor to include as income a Fair Dividend Return of 5% of the market vale of the share held at the start of an income year and to return 5% of any gain made if the shares are acquired and sold within the same income year.	No tax consequences.
IS A CORPORATION TAX DEDUCTION AVAILABLE?	Under current law, the cost to employers of providing shares to employees is not explicitly deductible. A corporate tax deduction is generally only available where a written recharge agreement is in place between the parent company and the New Zealand employing subsidiary. Provided such an agreement is in place the subsidiary should be able to deduct the cost of the stock award benefits from its income taxes. The corporate tax rate is currently 28%. Proposed new rules would allow employers a deduction for the cost of providing shares to the extent that they give rise to employment income taxed in the hands of employees. The proposed new rules are still in the discussion phase and any legislation is not expected until 2017 at the earliest. It is proposed there will also be a transitional period of three years after any new legislation is enacted.	
"QUALIFYING" PLANS AVAILABLE?	A concession is available for an approved share purchase scheme which deems the benefit to the employee to be zero and provides an employer with a notional interest deduction. The main benefits are: • The value of a benefit received by an employee is not taxable to the employee. • The employer company is eligible for a deemed deduction of 10% notional interest on loans made to employees to buy shares. This is additional to any deduction for actual interest incurred on money borrowed to finance the scheme. • Interest free loans made under a qualifying employee share scheme are automatically exempt from FBT. The schemes have limited application due to the restrictive nature of the regime. Most plans do not qualify for the concession. Submissions are currently being sought on whether the regime should be retained and modernised or removed.	
INTERNATIONALLY MOBILE EMPLOYEES	The above summary has been prepared on the basis that employees are resident in New Zealand throughout the period from the grant of the stock award until the shares are sold. The rules for internationally mobile employees are complex and there are specific rules applicable to non-resident individuals. Generally, New Zealand will have the right to tax the income if there is a link between the shares which the employee has received and the work of the employee performed in New Zealand. New Zealand broadly sources equity income based on the period between grant and vesting. It is highly recommended that advice is sought on an individual case by case basis.	
OTHER POINTS FOR CONSIDERATION	This summary is provided by BDO for informational purposes only to provide an outline of the general tax and social security position based on current tax law. There are also a number of legal and regulatory issues to consider on the implementation of any employee equity plan including, but not limited to, employee entitlement claims, exchange controls, securities restrictions, prospectus requirements and data protection regulations. We recommend that legal advice is obtained prior to the implementation of any employee equity plan.	

KEY ACTION POINTS

- ✓ Companies should review their systems to ensure that they are sufficiently robust to be able to capture, process and report stock award income through the payroll.
- ✓ There are specific rules applicable for Internationally Mobile Employees holding equity in New Zealand. We recommend that Companies review their systems to ensure that Internationally Mobile Employees moving in or out of New Zealand whilst holding equity can be identified to ensure correct compliance and identify any potential trailing liabilities.