# TAX TREATMENT OF RESTRICTED STOCK & RSUS

## SOUTH AFRICA

| | EMPLOYEE | EMPLOYER |
|---|---|---|
| **GRANT DATE** | Restricted stock :No tax consequences.<br>Restricted Stock Units (RSUs): No tax consequences. | No tax consequences. |
| **VESTING DATE** | Restricted stock: Taxed on vest. The taxable amount is the difference between the market value of the shares at vesting date and the price the participant paid on award (if any).<br>RSUs: Taxed on vest. The taxable amount is the difference between the market value of the shares at vesting date and the price the participant paid on award (if any). | No tax consequences. |
| **WITHHOLDING & PAYMENT OF TAX** | The employee's income tax liability is subject to withholding by the employer. | Where income tax is payable it must be withheld and remitted to the tax authorities. The employer must obtain a directive from the tax authorities to determine the applicable withholding amount. |
| **SOCIAL SECURITY** | Taxable remuneration derived by way of share awards may give rise to mandatory levies, such as unemployment insurance fund contributions and skills development levies. | Employer must ensure that levies are collected. |
| **REPORTING** | The employee must include details of the restricted stock or restricted stock units on the annual personal income tax return. | The employer must report details of the option on the monthly payroll tax return.<br>The information must also be included on the annual employee compensation form. |

**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 South Africa throughout the period from grant of stock awards until the shares are sold and that the employee is employed by a local employer in South Africa, 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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## SOUTH AFRICA

| | EMPLOYEE | EMPLOYER |
|---|---|---|
| **SALE OF SHARES** | Taxed on sale. The gain on sale of the shares is generally the difference between the sale proceeds less the market value of the shares already taxed. | No tax consequences. |
| **IS A CORPORATION TAX DEDUCTION AVAILABLE?** | If the option is granted by the parent company and the subsidiary reimburses the parent company for the cost of offering the awards, subject to South African Reserve Bank approval, a tax deduction may be available. | |
| **"QUALIFYING" PLANS AVAILABLE?** | There is a "broad-based employee share plan", which consists of four requirements. If plan meets these requirements, the employer will be allowed a deduction of an amount equal to the market value of qualifying equity shares granted to employees, less any consideration paid by the employees for those shares. | |
| **INTERNATIONALLY MOBILE EMPLOYEES** | The above summary has been prepared on the basis that employees are resident in South Africa throughout the period from the grant of the stock award until the shares are sold.<br>The rules for internationally mobile employees are complex and there are specific rules applicable to non-resident individuals. Generally, South Africa will have the right to tax the gain if there is a link between the shares which the employee has received and the work of the employee performed in South Africa. South Africa 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.<br>Cash-based awards may be treated differently and additional advice should be sought in this case.<br>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**

- ✓ Employers are responsible for the withholding of tax and social security on the employee equity awards. Companies should review their systems to ensure that they are sufficiently robust to be able to capture, process and report Restricted Stock grants and RSU vests through the payroll.
- ✓ There are specific rules applicable for Internationally Mobile Employees holding equity in South Africa. We recommend that companies review their systems to ensure that Internationally Mobile Employees moving in or out of South Africa whilst holding equity can be identified to ensure correct compliance and identify any potential trailing liabilities.
- ✓ Exchange control compliance procedures should be considered.