

TAX TREATMENT OF STOCK OPTIONS

GERMANY



	EMPLOYEE	EMPLOYER
GRANT DATE	No tax consequences.	No tax consequences.
VESTING DATE	No tax consequences.	No tax consequences.
EXERCISE DATE	Income tax arises on the spread at exercise.	No tax consequences.
WITHHOLDING & PAYMENT OF TAX	The employee's income tax liability is subject to withholding by the employer.	Domestic employers have withholding obligations for the wage tax and solidarity surcharge. Furthermore, church tax can occur. A domestic employer has to withhold wage taxes if the benefit was provided by a affiliated company. Where income tax is payable it must be withheld and remitted to the tax authorities with the regular monthly tax payments.
SOCIAL SECURITY	The employee's liability to social security contributions is subject to withholding by the employer. Social security is capped at a maximum annual income, so potentially no further social security contributions may be due on share benefits.	Employee social security contributions must be withheld and must be remitted to the tax authorities together with the employer's social security contributions with the regular monthly payments.
REPORTING	The employee may be required to file an income tax return relating to the year in which the shares were exercised and/or sold.	The employer must report monthly details of income tax and social security withholding both to the authorities and on the employee's payslip. The information must also be included on the annual wage tax declaration.

For further information and to register for future updates contact:

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Information contained herein is intended to reflect present law and provides only a general outline of the subjects covered. Material discussed herein is meant for general informational purposes only and should not be relied on as professional advice. As such you should consult your own tax advisor regarding your specific tax matters.

This summary has been prepared on the basis that employees are resident in Germany throughout the period from grant of stock options until the shares are sold and that the employee is employed by a local employer in Germany, 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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EMPLOYEE	EMPLOYER
SALE OF SHARES	<p>Taxed on sale. The gain is calculated as the market value on disposal less the market value of the shares on the exercise date.</p> <p>No tax consequences.</p>
IS A CORPORATION TAX DEDUCTION AVAILABLE?	<p>Provided arrangements are carefully structured and the company is purchasing its own shares in order to provide them to its employees, a deduction of the costs of providing shares to employees can be available for the employer in order to calculate his taxable income for corporation tax purposes. However, a deduction of the corporation tax base is not applicable if the company provides the shares to its employees by an increase of its capital stock.</p> <p>Notwithstanding the above, a deduction of corporation tax from capital gains, such as dividends, is not applicable any more in Germany.</p>
“QUALIFYING” PLANS AVAILABLE?	None available.
INTERNATIONALLY MOBILE EMPLOYEES	<p>The above summary has been prepared on the basis that employees are resident in Germany throughout the period from the grant of the share option until the shares are sold.</p> <p>The rules for internationally mobile employees are complex and there are specific rules applicable to non-resident individuals. Generally, Germany will have the right to tax the gain if there is a link between the option which the employee has received and the work of the employee performed in Germany. Germany broadly sources equity income based on the period between grant and vesting. It is highly recommended that advice is sought on an individual by individual basis.</p>
OTHER POINTS FOR CONSIDERATION	<p>There is no tax-favored program at the time the stock options are granted. At the time the stock is actually bought, a minor tax exemption may apply to any discount on stock acquired by an employee from the employing company or a related group company, if certain conditions are met.</p> <p>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.</p> <p>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.</p>
<p>KEY ACTION POINTS</p> <ul style="list-style-type: none"> ✓ Employers are responsible for the withholding of tax and social security on the exercise of employee stock options. Companies should review their systems to ensure that they are sufficiently robust to be able to capture, process and report stock option exercises through the payroll. ✓ There are specific rules applicable for Internationally Mobile Employees holding equity in Germany. We recommend that companies review their systems to ensure that Internationally Mobile Employees moving in or out of Germany whilst holding equity can be identified to ensure correct compliance and identify any potential trailing liabilities. 	