REINTRODUCTION OF TAX ADVANTAGES FOR EMPLOYEE SHARES

GLOBAL EQUITY ALERT - DENMARK

THE DANISH PARLIAMENT HAS REINTRODUCED TAX ADVANTAGES FOR EMPLOYEE EQUITY AWARDS WITH EFFECT FROM 1 JULY 2016.

SUMMARY

The Danish government passed a bill on 12 May 2016 to implement a new Section 7P of the Danish Tax Assessment Act, which provides beneficial tax rules for the treatment of share options, shares, Restricted Stock Units and other employee shares. These changes are designed to offer employees significant tax benefits.

The new rules will apply to employee share awards granted on or after 1 July 2016.

TAX TREATMENT

Under the new rules, employee shares etc. will not be taxable as salary (subject to income tax and social security) at the point of grant (for shares) or vest/exercise (for RSUs/options) but instead will be taxable as capital gains if and when the shares are sold. They will remain tax free (subject to meeting the conditions) until they are sold.

In addition to deferring the tax point until the sale of the shares, the taxation of the share payments also decreases from a maximum income tax rate of 56% to a capital gains rate of 27% (for gains up to DKK 50,600) and 42% for amounts above this threshold. This beneficial tax treatment can be applied to equity awards up to a maximum of 10% of the employee's annual salary.

APPLICATION OF NEW RULES

In order to qualify for favourable tax treatment a number of conditions must be met:

- the employer and employee must both enter into an agreement for section 7P to apply;
- the underlying shares must be ordinary shares and non-transferable;
- the equity award must be made by the employing company or a related group company;
- the employee must receive shares – purely cash settled arrangements are excluded.

These new rules could have an adverse impact on individuals who are subject to the exit charge rules on departing Denmark and advice should be sought for further information on this.

If a Section 7P agreement is not entered into, the new rules will not apply and the employee will continue to be subject to income tax and social security on the equity awards.

EMPLOYER IMPLICATIONS

If awards are granted which meet all of the conditions in Section 7P, the employer will have a reporting obligation to provide certain information to the Danish Tax Authority (SKAT). Danish companies that are members of multinational groups will be required to provide this information even if equity awards are issued to their employees by a foreign group company.

In addition, the employer will not be entitled to claim a corporate tax deduction in respect of any Section 7P equity awards.

ACTION POINTS

✓ Companies should review their existing employee equity awards in Denmark and consider introducing new Section 7P awards to allow employees to take advantage of the beneficial tax treatment.

For further information and to register for future updates contact:

globalequity@bdo.com

DENMARK CONTACTS:

Lars Jacobsen
Director, Tax
+45 391 55322
lar@bdo.dk

This information is current as of July 2016.

www.bdo.global

HB008470

BDO