Global Employer Services | 6 June 2016

Global reward update

New Zealand – Proposal to introduce employer reporting and voluntary withholding on employee share plan benefits

Background

Under current legislation in New Zealand, there are no employer reporting or withholding obligations in relation to employee share plans. Participants are required to report share benefits and pay any tax arising through their annual tax return. However, all other taxes due in respect of an individual's employment income are collected through the Pay As You Earn ("PAYE") withholding regime.

New Zealand's Government is currently considering changing these rules by introducing employer reporting requirements and the option for employers to operate voluntary withholding. It is proposed that the new rules will take effect from 1 April 2017.

Proposed changes

Voluntary withholding

A recent Bill, the Taxation (Transformation: First Phase Simplification and Other Measures) Bill ("the Bill"), proposes to introduce the option for employers to voluntarily operate tax withholding on share benefits received by employees. Withholding would apply at the tax point (e.g. at vesting for conditional share awards and exercise for stock options).

The Bill indicates that an employer's election to operate withholding can be withdrawn at any time and can also be made on an employee-by-employee basis.

Reporting requirements

The Bill also proposes to introduce mandatory reporting requirements for employers.

Employers will be required to disclose the taxable value of share benefits received by employees in their Employer Monthly Schedule, regardless of whether withholding is operated.

The following would be excluded from the proposed reporting requirements:

- Share benefits delivered under an employee share plan specifically approved by the Commissioner of Inland Revenue;
- Share benefits delivered to former employees (this includes terminated employees and mobile employees who are not in New Zealand at the tax point); and
- The sale of an award by an employee or associated person to a non-associated third party prior to vesting.

Employers will be required to report any relevant amounts to the Inland Revenue through their PAYE return in the month following the month in which the taxable event occurred.

Impact

The proposed reforms will reduce compliance for employees, but increase disclosure requirements for employers. This will result in a greater flow of information to the Inland Revenue and increase transparency of employee share plans.

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Deloitte's view

Historically, some employers had operated tax withholding on employee share benefits in New Zealand. However, the Inland Revenue had previously clarified that this position was incorrect. The new proposal shows a shift away from that previous position.

The current consensus in the market on the new proposal is that operating tax withholding may not be worthwhile. Therefore, it is possible that many companies will continue with their current position of not operating withholding on share benefits.

The requirement to report taxable benefits is likely to increase compliance costs for employers. This may require systems development and additional compliance work, especially if an employer chooses not to operate withholding.

Contacts

For assistance with these issues, or any other issue related to the operation of your global equity plans, please contact your usual Deloitte adviser or email us at globalshareplans@deloitte.co.uk, and an adviser will contact you.

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