



Tax Corner

Magazine / December 2014

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A black and white soccer ball is positioned on a green grass field, with a white line of grass visible in the foreground. The background is a blurred green field.

Hit your tax goals!



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When is the best time to offer stock options?

Companies and their HR managers are constantly looking for ways to keep good employees on board and involve them more closely in the company. 'Equity based compensation' can provide part of the solution.



From a fiscal point of view, the best time to offer stock options is consequently between 2 November and 31 December."

Offering stock options is the most popular form of equity based compensation. A stock option is a right to buy shares during a specified period in the future at a predetermined or determinable price. This is usually tied to specific conditions, for example, that the beneficiary must still be a company employee at the time the option is exercised. Stock options granted under the terms of the law of 26 March 1999 are taxable at the time they are 'granted'¹. The grant is presumed to take place on the sixtieth day after the date of the offer, even if conditions are tied to the exercise of the option and on condition that the beneficiary has accepted the offer in writing within 60 days. The offer must be sent to the beneficiary in writing and has to be dated.²

For the calculation of the taxable benefit, a distinction is made depending on whether options are listed or traded on the stock exchange or not. If this is indeed the case, then the taxable benefit of the option is determined on the basis of the last closing stock price on the last trading day preceding the offer. In many cases, the options are not actually listed or traded on the stock exchange. Then the taxable benefit is determined based on a lump-sum valuation method, fixed at a certain percentage

of the value of the underlying shares at the time of the offer. This benefit is increased by the difference between the value of the shares and the exercise price if the exercise price is lower. The base percentage of the lump sum benefit amounts to 18% of the value of the underlying shares³. If the term of the option is longer than five years, then the base percentage is increased by 1% per year or per part of a year exceeding the five years.

These percentages can be halved if a number of conditions are met. One of the conditions is that the option may not be exercised before the end of the third calendar year following the date of the offer (e.g. an option that was granted in May 2014 cannot be exercised before 1 January 2018).

From a fiscal point of view, the best time to offer stock options is consequently between 2 November and 31 December. This defers the taxable moment (the grant) by one year, since the offer has to be granted 60 days after the offer. Furthermore, in this manner, the three-year waiting period under the reduced lump-sum valuation method (see above) is kept as short as possible. ■

This article was written by Ilse Copers (Senior Tax Adviser).

¹ Most European countries tax stock options when those stock options are exercised. So Belgium is a major exception.

² Article 41, 4° of the Stock Options Act, as amended by Art. 403 of the law of 24 December 2002, published in the Belgian Official Journal of 31 December 2002.

³ Before 1 January 2012, the base percentage was 15%.



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Warehousing services: VAT authorities publish decision

The Belgian VAT authorities have recently published¹ their new position on the place of supply of warehousing services. To date, the VAT authorities were of the opinion that warehousing services were subject to VAT in the country where the immovable property was located.

In 2010, however, the VAT authorities introduced a tolerance whereby warehousing services, at the discretion of the contracting parties, could be treated as general B2B-services and are thus taxable for VAT purposes in the country of the recipient (via the reverse charge mechanism). In this way foreign companies could avoid being charged with Belgian VAT. Following a recent European regulation, the VAT authorities have now adjusted their position. Although this European regulation will not go into effect before 1 January 2017, the new administrative position will be effective as of 1 June 2014.

The VAT authorities distinguish **three categories of warehousing services**, whereby the criterion of 'exclusive right of use' is decisive.

1. Granting exclusive right of use of immovable property

This service still takes place and is in principle still taxable where the immovable property is located. The criterion of exclusive right of use is deemed to be met if a number of conditions mentioned in the decision are fulfilled such as:

- free access of the customer to the warehouse;
- the immovable property owner is not allowed to execute additional economic activities regarding the stored goods;

If the immovable property is located in Belgium, Belgian VAT will always be invoiced whether the client is located in Belgium or not.

2. Granting non-exclusive right of use of immovable property

According to the general B2B rule, the service is taxable where the recipient is established.

If the immovable property is located in Belgium, Belgian VAT is only to be invoiced in the situation where the client is located in Belgium. Non-established clients will be invoiced without Belgian VAT (reverse charge).

3. Warehousing service with additional economic activities

This concerns the economic activities aimed at maintaining/improving the quality of the stored goods such as packaging, weighing, sorting, labelling, etc. This service is also taxable where the recipient is established, according to the general B2B rule.

If the immovable property is located in Belgium, Belgian VAT will be invoiced when the client is located in Belgium. Non-established clients will be invoiced without Belgian VAT (reverse charge).

Finally, the administrative decision states that warehousing services, if they take place in Belgium, will be exempt from VAT in certain cases (e.g. in the case of export or storage in a VAT warehouse). ■

This article was written by Samir Haouari (Executive Manager, Tax & Legal Advisers) and Liesbeth Coomans (Tax Adviser).

¹ VAT Decision no. E.T. 124.412 dd. 02.06.2014



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Modified tax treatment for new investments in Flanders

At the end of 2013 a Flemish decree was adopted that should lead to a faster phasing-out of the property tax on industrial equipment for new investments in Flanders.

With the implementation of this decree, an additional 'incentive' has been given to companies in Flanders, who wish to invest in industrial equipment. This new regulation provides for a faster phasing-out of the property tax ('onroerende voorheffing/précompte immobilier') on industrial equipment.

The existing exemptions and reduction options are retained, but the decree significantly extends the possibility of reduction of the tax base (and therefore the property tax).

If a deemed net rental value (i.e. taxable basis for the property tax) is ascribed to industrial equipment in the period between 1 January 2014 and 31 December 2016, then this value is not only exempt from property tax but can be offset immediately against the total deemed net rental value of the

plot. A decrease in the property tax owed is the logical consequence.

New investments will benefit from three tax breaks in 2014:

1. the new investment will enjoy complete exemption from property tax;
2. the old material and equipment that is removed as a result of the new investment will bring down the deemed net rental value;
3. the new investment will generate a further reduction of the taxable notional income.

Furthermore, a pure investment without a corresponding disinvestment will also lead to a fall in the property tax due. There is also a condition that - if the taxpayer belongs to an energy target group for which the Flemish Government has drawn up a policy agreement

- this agreement must be signed and implemented.

The current scheme only applies to investments in industrial equipment made between 1 January 2014 and 31 December 2016. The Flemish Government's intentions after 2016 are currently unclear, but the Government Agreement 2014-2019 may include an extension of the measure if the current measure receives a favourable evaluation.

Based on the new regulation described above, it is therefore possible in the next few years to make immediate, large(r) cash savings on the property tax on industrial equipment, which will continue to have an impact in the future in the form of a reduced deemed net rental value. ■

This article was written by Olivier Deprez (Senior Tax Adviser) and Liesbeth Coomans (Tax Adviser).

Finding the right balance

There are so many ongoing discussions around the balance between profitability and responsibility to stakeholders. Companies are looking for concrete measures to help them achieve this balance and each company needs their own approach. Thanks to its wide reaching experience and global network, KPMG can guide you and help you understand how your business can carry out this delicate balancing act.