CELIA ALLIANCE
Law & Tax for International HR

EXPERT INSIGHTS

Share incentives for international remote working and global mobility programmes



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The shift towards International Remote Working and increased global mobility presents plenty of benefits for both the professional and personal lives of employees.

However, there are many complexities that employers must be aware of. We share the role of corporate share incentives and how to use them for employees working internationally.

Why share incentives?

Equity awards can be an important part of employee pay. For employers, they are a useful tool to attract, motivate and retain staff. By giving employees a stake in the company, share awards align their interests with those of shareholders, encouraging them to help grow the business or work towards a sale or flotation. When the upside of awards depends on continued employment, they can also help retain key people.

There are many other reasons to introduce a share plan, for example:

- SMEs with limited cash may use equity instead of cash bonuses
- Private equity investors often require senior management to hold shares
- Some companies goverened by financial regulators are required to pay part of variable remuneration in shares or similar securities
- For many businesses, equity is simply expected as part of a balanced pay package.

Security laws

When International Remote Working is involved, employers will need to comply with applicable securities laws when considering share awards in the Host Country.

Such rules may not only impose requirements before awards can be made but also how they may be communicated to employees and the content of such communications.

Tax and social security

All or part of the employment income realised from share awards granted in the Home Country may be taxable and/or subject to withholding in the Host Country, dependent on how it apportions taxable income from the date of grant of the Award during the employee's tax residency.

Examples of apportionments include taxing periods of:

- Residence
- Work between grant and vesting
- Work between grant and exercise of share award

Many OECD (Organisation for Economic Cooperation and Development) nations follow OECD guidance contained in the Commentary on the Articles of the Model Tax Convention and distribute taxable income according to residency during the period between the award's grant and its vesting.

It's crucial to note that the income tax (and possibly capital gains tax and social security) liability may arise in both the Home and Host Countries on chargeable events after the employee has left either country.

If the event occurs before the employee has returned to the Home Country, that country may recognise the Host Country's taxing rights and exclude those from withholding, or it may be necessary for double taxation to be eradicated by submitting tax returns in both countries.

Employers may need to align income tax and capital gains tax position across both jurisdictions.

In this instance, please seek specialist advice.

Tax planning opportunities include triggering earlier income tax charges relating to chargeable events, designing share plans to align with tax schemes in the Host Country, etc.

Please note that local laws should always be checked when considering local compliance issues, including issues around permanent establishment risk and corporate residence issues.

Contact us if you have any questions or concerns about your share incentive programme or want advice on how to minimise your company's tax and compliance risk associated with international remote working or global mobility more generally then.

GET IN TOUCH WITH ONE OF OUR SPECIALISTS TO FIND OUT MORE.



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