

EMPLOYEE EQUITY PLANS – REPORTING REQUIREMENTS

GLOBAL EQUITY UPDATE – LUXEMBOURG



ALL COMPANIES WITH EMPLOYEES TAXABLE ON SHARES, SECURITIES OR OPTIONS MUST COMPLETE MANDATORY REPORTING AT TAX POINT

REPORTING OBLIGATION

Tax circular L.I.R. n°104/2bis issued on December 28th, 2015 sets an obligation for the employer to notify stock option plans to the tax authorities.

This circular defines different notification requirements depending on the date of implementation of the plan:

- For plans implemented before January 1st, 2016 under which options are allocated as from January 1st, 2016, the employer has to provide the tax authorities with a copy of the plan as well as with the list of participants as soon as it is known.
- For plans implemented as from January 1st, 2016, the employer has to provide the tax authorities with a copy of the plan at least two months before it is actioned, as well as with the list of participants as soon as it is known.

FORM OF REPORTING

The tax authorities has specified recently, through an information note, the form of that notification: it should be made electronically by using a specific Excel file which must be downloaded on the tax authorities' website (http://www.impotsdirects.public.lu/changes_electroniques/stock_options/index.html).

An Excel file will have to be filed for each plan implemented by the employer and the plan will be allocated a unique identification number. The use of the Excel file in native format is mandatory.

Not only stock options plans strictly speaking are concerned by this new notification's obligation, but also share allocation plans. The file includes separate sections respectively related to stock option plans and to share allocation plans. Information to be provided in these two sections depend on the type of plan and are nominative data detailing the computation of the taxable benefit in kind. Especially, the following information has to be provided for each participant : year of grant, number of options/shares allocated, amount of the taxable benefit, etc.

The file shall be submitted through a secure IT tool called One-Time-Exchange (OTX) which has been set up by the tax authorities.

ENFORCEMENT DATE

These notification's requirements are applicable retroactively as from January 1st, 2016, date on which the circular came into force. All employers who allocated options, warrants or shares to their employees as from this date have to comply with this new obligation, even if a notification has previously been done in another format.

ACTION POINTS

- ✓ Employers should notify new plans implemented
- ✓ Employers should complete tax reporting within a reasonable deadline after the taxable event occurs.

For further information
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Should you have a need for a trusted advisor in this area, please contact BDO's Global Equity team at globalequity@bdo.com.

This information is current as of September 2016.

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