



Global Reward Services Quarterly Newsletter

April 2023



The KPMG Global Reward Services Quarterly Newsletter brings you compensation and reward developments, along with KPMG observations, from around the world.

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Americas



United States: Timing of employment tax remittance for equity plans under SEC settlement timelines

In February 2022, the Securities and Exchange Commission (SEC) announced proposals that the United States will be moving to a shorter securities settlement cycle from T+2 to T+1. This change is scheduled to take place in April 2024.

Currently, the SEC rule provides up to two days between the payment or issuance of stock and when it is settled in the account of a recipient. The long-standing issue has been how the delay on settlement affects the need for companies to withhold and pay employment taxes on their equity programs, especially when the shares are withheld or sold to provide the cash to pay those employment taxes.

While the proposed amendment is designed to enhance efficiency, reduce risk, and ensure a coordinated transition by market participants to a shortened standard settlement cycle, it may also pose challenges. Specifically, challenges may arise for US employers operating large-scale global equity plans who are required to be tax compliant globally and across a diverse population of domestic and cross-border employees. With this in mind, there will need to be adjustments to processes to ensure timely deposits of US employment taxes, specifically when the next-day deposit rules apply.

For more information, read our [KPMG Tax insight](#).

KPMG observations

Considering this amendment and the additional time pressures caused by T+1, companies are urged to consider a comprehensive review of their processes to ensure compliance with the next-day deposit rules.

Currently, to manage the employment tax process with stock-based compensation, some employers make estimated payments of applicable withholding taxes to ensure they meet the next-day deposit deadline. If needed, they make adjustments or true-up to actual amounts within the same payroll period to avoid penalties. With the proposed introduction of a T+1 settlement window, stock option exercises may be particularly challenging to process timely because an employer does not know when an employee may send in a notice of exercise. Without an automated process, meeting a T+1 settlement deadline for stock option exercises is often not possible.

New process timelines for equity administration and settlement processes should be developed to mitigate risks in meeting processing timelines.

Asia Pacific



Indonesia: Taxation of benefits-in-kind

Indonesia's Government Regulation No.55 (GR-55) implementing the Income Tax Law amendments introduced under the Harmonization of Tax Regulations (*Harmonisasi Peraturan Perpajakan/HPP*) Law was issued on December 20, 2022. This new regulation applies retroactively from January 1, 2022.

This law changed the rules in relation to the tax treatment of benefits-in-kind (BIKs) provided by Indonesian employers to their employees. Prior to this change, noncash benefits-in-kind provided by employers in Indonesia were not taxable to employees. Exceptions to this new rule include food provided to employees, benefits from the government, BIKs in remote areas, and BIKs necessary to the employee's work, which will remain non-taxable.

GR-55 defines “in-kind” as compensation in goods rather than money. A “benefit” is defined as compensation in the form of the right to use a facility or a service which is provided by either the employer or a third party where the asset is rented or paid for by the employer (e.g., accommodation, children’s tuition fees, and insurance).

For more information, read our [KPMG Flash Alert](#).

KPMG observations

Employees will be required to report benefits in kind as income on their annual tax return—the SPT 1770 or 1770S. They do not need to report BIKs on their returns if the employer withholds taxes and reports the income for them.

Employers may be able to deduct BIK expenses.



Japan: Changes to qualified stock option requirements for start-ups

Japan’s April 1, 2023 new tax rule modifies the “exercise period requirement” for stock options issued by certain unlisted Japanese “start-up companies” to their employees/directors.

Previously, the tax law provided that stock options must be exercised after two years but before 10 years from the resolution date of the option grant to be treated as a qualified stock option. However, under this new proposed law, the exercise period requirement will be extended to 15 years from the resolution date of the option grant. Treatment as a tax qualified stock option is preferential because it allows income from the exercise of such options to be treated as taxable capital gains and deferred until the shares received at exercise are sold. Nonqualified stock options are taxed as employment income at the time of exercise.

For more information, read our [KPMG Flash Alert](#).

KPMG observations

The relaxing of the exercise period requirement provides an incentive for start-ups. Extending the tax-preferential exercise period for stock options means that these awards could become a more attractive way of compensating individuals in the start-up sector. In addition, this extension of the exercise period requirement will provide start-ups who depend on their employees to perform research and development, negotiate supply chains, and build relationships with manufacturers with more flexibility in the way they compensate employees and help them achieve their goals.

Europe



Czech Republic: Monetary payment for worker's vacation is taxable

A recent Supreme Administrative Court (SAC) decision affirmed the District Social Security Administration's position that to be exempt from income tax and social security withholding, benefits cannot be monetary contributions to employees.

This result came after an appeal to the SAC following a regional court ruling that nonmonetary benefits could take the form of goods and services provided by the employer through reimbursement or financial assistance with these expenses. SAC concluded that one of the essences of a nonmonetary benefit is the form in which it is provided. A nonmonetary benefit is by nature a benefit that is not provided in the form of cash or is not exchangeable for cash or other similar benefits.

For more information, read our [KPMG Flash Alert](#).

KPMG observations

The SAC conclusions in this case result in any kind of cash or cash equivalent contribution to employees being treated as a taxable vacation benefit. Employers should be aware that nonmonetary benefits are exclusive to situations where an employer pays a sum of money to a person other than the employee and his or her family member and that person is the one to provide a benefit or service to the employee. This is the only way to ensure that the vacation benefit is treated as exempt from income tax and not included in the assessment base for social security contributions.



Germany: Summary of new tax, migration, and labor rules

Recent changes in tax regulations in Germany in the areas of social security, immigration, and labor laws for the assessment periods of 2022 and 2023 will impact employers and payroll processes while easing employee tax burdens to help offset cost of living increases. Among the other modifications to tax regulations are key changes to employer provided benefits including:

- **Inflation Compensation Premium:** In the period from October 26, 2022, to December 31, 2024, employers are entitled to pay their employees an amount of up to EUR 3,000 (subsidies and benefits-in-kind) tax and social security-free in addition to the salary already earned. This payment is meant to help with increases to cost of living.
- **Reimbursement of moving expenses:** As a result of a simplification of the rules allowing a flat rate deduction of income-related expenses in the amount of the flat-rate relocation costs without proof, employers are allowed to provide a tax-free reimbursement up to the flat-rate amount without any further examination. As April 1, 2023, this flat rate is EUR 886 per employee and an additional EUR 590 per relative who moves with the employee.

- Taxation on the private use of a company car: Employer-provided company cars provided to employees as a benefit are now calculated as follows: monthly 1 percent of the gross list price and 0.03 percent of the gross list price per kilometer for commuting between the employee's home and his or her place of work.

For more information, read our [KPMG Flash Alert](#).

KPMG observations

There are many changes in the 2022 and 2023 tax law that impact employers with workers in Germany and employees traveling to live and work in Germany. Impacted employers should review these updates to ensure compliance.

- Employers have the discretion whether and to what extent to provide their employees with the inflation compensation premium. The payment should be clearly labeled "Inflation Compensation Premium" on the monthly pay slips. Nevertheless, the payment does not have to be shown on the annual German wage tax statement, nor must it be reported by the employee in his or her German income tax return.
- Employers will no longer have to provide proof up to the flat-rate relocation cost amount. In the new payroll tax guidelines, it is also made clear that moves from abroad to Germany qualify for the flat-rate, tax-free reimbursement.
- The new wage tax guidelines also make it clear that the monthly company car benefit values must be applied if the employee only used the vehicle occasionally or not at all during a certain month (e.g., due to home office or a stay abroad). Note that these regulations contradict case law in Germany, which denies the flat-rate approach to fringe benefits according to the 0.03-percent method if the vehicle was not used for commuting as set by the rules.



United Kingdom: Capital gain exemption reduction and SAYE employee share plans

A U.K. tax advantaged Save As You Earn (SAYE or 'sharesave') plan is a key part of many companies' total employee reward packages. Multinational corporations can implement SAYE as a stand-alone employee share plan, or as a U.K. subplan to a comparable non-U.K. plan (e.g., a U.S. qualified Employee Stock Purchase Plan or an Irish-approved SAYE plan).

Income tax relief on the acquisition of shares at a discounted strike price, and the availability of an annual exemption to shelter disposals from Capital Gains Tax (CGT), mean SAYE plans let many U.K. employees participate, tax-free, in the shareholder value they create. This enhances SAYE options' commercial value to employers as effective employee incentives.

However, from April 6, 2023 (the U.K. tax year runs from April 6 to April 5), an individual's CGT annual exemption will be reduced from GBP 12,300 to GBP 6,000. From April 6, 2024, the individual CGT annual exemption will be fixed at GBP 3,000

For more information, read our [KPMG Flash Alert](#)

KPMG observations

More employees who participate in SAYE plans will have to pay CGT under this new policy to reduce the annual exemption amount for taxes on CGT.

The interest or 'bonus' rate for SAYE savings contracts has been zero since 2014. Therefore, without a positive bonus rate, the savings contract only provides upside potential if the SAYE option is exercised and shares are acquired.

The bonus rate for SAYE remained at 0% following the UK Budget published on March 15, 2023.

Upcoming events:

- *Parmjit Sandhu will be presenting on the NASPP monthly national webinar on May 17 at 1:30 pm EST on 'ESG Metrics in a New Era of Pay for Performance'*
- *Leann Balbona and Zared Willard will be presenting at the GEO Conference in Edinburgh on April 24*

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