

CHANGE IN LEGISLATION CONCERNING THE TAXATION OF SHARE OPTION RIGHTS

Companies, specifically start-ups and scale-ups with limited budgets, often choose to award employees with share option rights, next to or in addition to ordinary salary. Under current legislation, such share options are taxed with personal income tax when an employee chooses to exercise the share option right. However, the company and the employee may have agreed on a contractual limitation or sale restriction (lock-up). As a consequence, an employee may not have sufficient liquid assets available to pay the income tax due.

To prevent employees facing liquidity problems as a consequence of the lock-up, the State secretary of Finance proposed an amendment to the current stock option regime. In future, the employee may either choose to get taxed at the moment the share option is exercised (taxation over fair market value of the shares at the time of exercise less exercise price paid) or defer taxation until the moment the acquired shares are sold (taxation over market price of the shares less exercise price paid). This amendment aims to meet the needs of start-ups and scale-ups to enable them to attract, and above all keep talented work force with an attractive compensation package. This is seen as key for the further development of young and innovative companies.

It is expected that the amendment to the stock option regime will enter into force as per January 2023.

Are you considering introducing an employee stock option scheme (for example a stock option right), or having questions about the current and future taxation thereof? The specialists of HVK Stevens are happy to assist you.

FOR MORE INFORMATION, PLEASE CONTACT:



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