



Mobility: Tax alert

November 2021

The Netherlands

Recently announced changes to the taxation of employee stock options withdrawn

Executive summary

The new legislation relating to the taxation of employee stock options that was announced on 21 September 2021 has been withdrawn. Under the proposed legislation, the taxable event for stock options would have been the date that the shares, received by exercising the options, became tradeable.

The plans have been withdrawn following comments in the Lower House on the broad applicability of the new rules and their complexity. The Secretary of State indicated that there would likely be new proposals only for start-ups before March 2022. As such, any new legislation will not become applicable before 1 January 2023.

Background

The Dutch stock option rules were reviewed in prior years following discussions initiated by the start-up/scale-up community in the Netherlands. The primary issue identified was in relation to cash-flow concerns i.e., the availability of funds to meet the tax due, since it is not always possible to immediately sell any shares in order to generate the necessary funds. The new plans are expected to resolve this cash-flow issue and provide flexibility to employees by enabling them to effectively choose the date of taxation.

Changes announced in September 2021

Under existing rules, there is a taxable event in relation to a stock option when the option is exercised (or disposed). However, under the proposed rules, there would have been a taxable event when the shares obtained by exercising the stock options became tradeable, being the earliest time that the employee was able to sell any shares.

Plans withdrawn

The plans were withdrawn before voting took place in the Lower House, due to questions raised in parliamentary debates. The Secretary of State indicated that plans would have to be re revised.

There are two reasons for this:

- ▶ First, according to the Lower House, the viability of the current proposal is questionable as rules are experienced as too complex.
- ▶ Second, consideration is to be given as to whether it will be possible to introduce rules that apply to start-up companies only, via a cap on either the number of employees or the company's turnover. Any such proposals would require EU-approval.

The new rules are expected before March 2022. As such, any new legislation will not be applicable before 1 January 2023.

Next steps

EY will continue to monitor these developments. Should you have any questions, please contact any of our tax professionals.

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