

Latvian company awards stock options to subsidiary's employees: tax implications 3/26/22



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With employee stock options becoming increasingly popular, Latvian companies too are offering this incentive not only to their own employees but to those of their subsidiaries. This article explores the corporate income tax (CIT), personal income tax (PIT) and national social insurance (NSI) implications of a Latvian company awarding stock options to its own and subsidiary employees.

Background

A Latvian company owns a subsidiary in Denmark. The company has decided to incentivise its own and the subsidiary's employees by awarding them stock options (subject to conditions). Stocks would be issued to the employees for free or offered at a discount if they met the conditions of the company's stock option programme.

The conditions permit the benefit (income) arising from stock options to qualify for exemptions available under section 9(1)(43) of the [Latvian PIT Act](#).

If the conditions are satisfied and the stock option plan implemented, employees of the Latvian and the Danish company would be awarded stocks in the Latvian company. The company has incurred costs in awarding these stocks, such as external valuation and legal costs, as well as internal administration costs. According to the group's transfer pricing policy, some of the Latvian company's external and internal costs incurred in creating, implementing and maintaining the stock option plan are included on an invoice it issues to its Danish subsidiary for management services (with or without a markup depending on the type of expense).

The answers to questions set out below have been confirmed by the Latvian State Revenue Service (SRS).

[Since stocks are also awarded to non-Latvian company employees, is the Latvian company required to report those to the SRS?](#)

The SRS has confirmed that when notifying the SRS of the stock option plan, the company is not required to name the stock option recipients who are employed by the Danish company and carry out their work in Denmark (the stock options being awarded for work in Denmark).

[Are Latvian PIT and NSI payable on the value of stocks awarded to the Danish subsidiary's employees even if the conditions of section 9\(1\)\(43\) of the PIT Act are not satisfied because taxes are payable in Denmark under article 15 of the Latvia-Denmark double tax treaty?](#)

Wages, salaries and other equivalent types of remuneration a Danish resident receives for their work will be taxed in Denmark only.

Accordingly, if the Danish company's employees are Danish residents who are not simultaneously

employed by the Latvian company, if stock options are awarded in respect of work for the Danish company, and if the work for the Danish company is carried out in Denmark, then the Latvian company is not liable to withhold Latvian PIT or pay NSI contributions on stock options exercised by the Danish company's employees even if the conditions of section 9(1)(43) of the [PIT Act](#) are not satisfied.

[Are the Latvian company's costs treated as business expenses exempt from CIT?](#)

If the Latvian company pays expenses incurred in purchasing stocks awarded to the Danish company's employees, those expenses are not economically related to the Latvian company's business and are therefore subject to CIT. However, if the Latvian company issues an invoice for these costs to the Danish company, which serves as a basis for recharging some of the costs, they can be treated as business expenses free of CIT.