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WHITE PAPER

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International Employee Stock Plans: 2019 Mid-Year Developments

This *White Paper* highlights some recent developments in certain countries relating to employee stock plans offered by multinational companies to employees in such jurisdictions.

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BELGIUM

New Tax Withholding Obligations

Effective March 1, 2019, employers in Belgium are required to withhold and report wages when an equity award is considered taxable, regardless of whether the local entity is involved in the grant process (e.g., through a recharge of costs). One unusual consequence of this new tax withholding requirement relates to the taxation of qualified stock options. Any tax qualified stock options for which the 60th day following the offer date under Belgian tax rules occurs on or after March 1, 2019, are now subject to wage withholding on the 60th day (which is considered the date of grant in Belgium). Taxes must be remitted to the tax authorities by the 15th day of the month following the month in which the date of grant occurs.

Because stock options are typically not immediately exercisable at grant so that shares cannot be sold to cover the tax obligation, companies must determine how to collect the taxable amounts. Please note that there are limitations on the amount that an employer may deduct from an employee's salary if the tax obligations are satisfied in that manner.

In terms of reporting, for qualified options, employer tax reporting will continue to be due by March 1 of the year following the year in which the options were taxable. With respect to all awards other than qualified stock options, transitional reporting rules will apply.

DENMARK

Amendments to Danish Stock Option Act

The Danish government amended the Danish Stock Option Act, effective with respect to grants made on or after January 1, 2019, to generally eliminate the requirements for good leavers to retain equity awards after termination of employment and to receive additional awards after termination. The amendment generally applies only to awards granted in 2019 under an equity plan that was adopted in 2019. Companies can consider various approaches for purposes of applying the new rules to awards granted under older equity plans, which have different risk profiles. Please consult your global equity advisor to consider the best approach for your company if the underlying plan was adopted prior to 2019.

New Tax Reporting

For stock option exercises and restricted stock units ("RSU") that vest in 2019, the Danish subsidiary will be required to report such events to the Danish tax authorities. The report, which is due by January 20 of the year following the year in which shares are acquired pursuant to a stock option exercise or RSU vesting, must include the name of the issuer, the number of shares acquired, the acquisition date, and the purchase price (if any). In addition, at the time of grant of stock options, the Danish subsidiary must inform the tax authorities online about the grant (known as "making a mark in the Danish Income Register").

EUROPEAN UNION

EU Prospectus Regulation

On July 21, 2019, the EU Prospectus Regulation ("Regulation") will fully come into effect and replace its predecessor, the EU Prospectus Directive ("Directive"). Like the Directive, the Regulation will require companies that grant equity awards and/or offer an employee stock purchase plan to their employees in the European Economic Area ("EEA") to register a securities prospectus in their home Member State with respect to such grants or offers unless an exemption applies.

However, unlike the Directive, public companies that do not have securities listed on a European stock market will be able to rely on the employee share scheme exemption under the Regulation. If a company decides to rely on the employee share scheme exemption under the Regulation, the company must issue an information memorandum to plan participants. Under the Directive, for companies that traded on an EU exchange and were able to rely on the employee share scheme exemption, this information memorandum requirement is not new, but it is advisable to have any previously prepared memorandum updated to ensure all requirements under the Regulation are being met. Companies that will be relying on the exemption for the first time after July 21, 2019, will need to prepare an information memorandum prior to the date on which they first intend to rely on the new exemption.

In addition, companies with equity grants in the European Union that were considered exempt under the Directive should consult their global equity advisors to ensure that they are still

able to take that position without taking any further action. Some EEA Member States have adopted local securities rules that may require specific compliance. In many circumstances, utilizing an information memorandum for stock option or RSU awards may be the easiest alternative for compliance with these local securities rules.

FRANCE

PAYE Withholding

Effective January 1, 2019, Pay-As-You-Earn (“PAYE”) was implemented in France. As a result, income tax must now be processed through payroll and withheld by employers rather than paid by employees with their annual tax filings. The introduction of the PAYE system is a significant change from the previous system, where personal income tax was directly declared and paid by employees the next calendar tax year.

Each year between October and November, the French tax authorities will provide the applicable tax rate for the relevant tax year to both employees and their employers. Rates should generally reflect the average personal income tax rate that was applied to the employees during the previous calendar tax year, but employees with privacy concerns may choose to have a nonpersonalized tax rate used instead. Employees may also elect to use a specific tax rate that would be tailored to their individual tax circumstances.

Employees are still required to file with the French tax authorities a yearly income tax return. However, employers must now, on a monthly basis, collect the withholding tax, file a return online with the French tax authorities (*déclaration sociale nominative*), and remit the tax amounts to their local tax office. Employers with more than 49 employees must remit the taxes before the fifth of each month, and employers are allowed to use a payroll services provider to meet their filing obligations.

SINGAPORE

Changes to Payroll Deduction Rules

The Singapore Employment Act was recently amended, effective April 1, 2019, so that certain provisions of the Act now apply to all employees, regardless of salary level. Previously, managerial and executive employees who earned more than S\$4,500 were exempt from the Act. Such managerial employees are now entitled to annual leave, medical and hospitalization leave, and protection against wrongful dismissal, among other benefits.

In addition, the amendment provides that payroll deductions, including deductions for purposes of participating in a stock purchase plan, must be subject to the prior written consent of an employee, regardless of the employee's position or salary level. Any consent given may also be withdrawn by written notice to the employer. Although individual consent is now required, the payroll deduction process no longer requires Ministry of Manpower approval, which was necessary prior to this latest amendment to the Act.

LAWYER CONTACTS

For further information, please contact your principal Firm representative or the lawyers listed below. General email messages may be sent using our “Contact Us” form, which can be found at www.jonesday.com/contactus/.

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