

Japan

Employment

Labor Concerns

Employee entitlement claims are becoming more common. The risk of employee claims for additional benefits can be reduced by having the employee acknowledge in writing the plan's discretionary nature and by preparing plan documents separately from the contract and work rules. The awards may not be made in lieu of salary.

Communications

Translation of restricted stock and RSU plan documents for employees is recommended, but not required. Government filings must be in Japanese.

Regulatory

Securities Compliance

Securities restrictions generally do not apply to restricted stock or RSUs.

Foreign Exchange

Employees must file a report with the Ministry of Finance within 20 days of grant of restricted stock or in case of RSUs, the acquisition of shares, if the value of the securities underlying the restricted Stock or RSUs exceeds ¥100,000,000 via the Bank of Japan.

Data Protection

Employee consent for the processing and transfer of personal data is required, subject to certain statutory exemptions for "joint use".

Tax

Employee Tax Treatment

Japanese tax laws lack explicit provisions for restricted stock and RSU plans and thus tax consequences are uncertain. The employee most likely will be subject to tax upon vesting provided that there remains a risk of forfeiture until vesting. In the case of restricted stock, if employees maintain shareholders' rights (e.g., to receive dividends and to vote) from grant, the Japanese tax authorities would likely assert that the employee should be subject to tax upon grant despite the potential forfeiture in future. The value of the Stock at the taxable event (vesting or grant) is taxed as general remuneration income. Capital gains tax generally is due on the gain from the sale of the Stock.

Social Insurance Contributions

Social insurance charges should not be imposed provided that the plan benefits are not treated as a salary for labor performed by the employee for this purpose.

Tax-Favored Program

None.

Withholding and Reporting

Withholding and reporting requirements generally do not apply if the Subsidiary/other local office remains uninvolved in the payment of plan benefits and the Issuer is not reimbursed for the cost of plan benefits. However, if an employee of a Japanese corporation which is over 50% owned by a foreign corporation or an employee of a Japanese office of a foreign corporation receives economic benefits from the foreign corporation according to a right granted by the foreign corporation, the Japanese corporation/head of the Japanese office is required to submit a report concerning the provision of economic benefit. This requirement applies to a report to be submitted on or after 1 January 2013.

According to 2013 tax reform, a certain assets including company shares located outside of Japan is subject to a reporting obligation. This rule applies to a report to be submitted on or after 1 January 2014.

This summary is intended to reflect local law and practice as at 1 May 2013. Please note, however, that recent amendments and legal interpretations of the local law may not be included in these summaries. In addition, corporate governance, administration, and option plan design facts that are specific to your company may impact how the local laws affect the company's equity based compensation plans.

With these matters in mind, companies should not rely on the information provided in this summary when implementing their stock plans.

Employer Tax Treatment

Although the law is vague, a deduction may be allowed if the Subsidiary bears the cost for plan benefit, subject to prescribed requirements for deduction.

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