

China

Employment

Labor Concerns

The requirement that employers in China remunerate employees in cash only, rather than in negotiable securities, is unlikely to be problematic provided that options are clearly designated as bonuses paid alongside regular cash wages.

Communications

The translation of Plan documents (Plan, agreement, grant notice, exercise notice, and exercise adjustment notice) may be required (see "Withholding and Reporting" below). Government filings must be in Mandarin.

Regulatory

Securities Compliance

At present, there are no specific laws or regulations that address equity incentive programs offered by foreign issuers to their Chinese resident-employees.

The only exception is the Securities Law and this applies to all entities engaged in the issuance of securities in China. If the securities are issued to more than 200 specified persons, the issuance may constitute a "public offering" of securities.

A "public offering" is subject to approval from the China Securities Regulatory Commission (the "**CSRC Approval**"). However, in practice there is currently no formal process in place to obtain CSRC Approval for stock-based equity awards by a foreign company to its Chinese resident employees.

Foreign Exchange

Operating the Plan in China is likely to require the approval of the State Administration of Foreign Exchange ("**SAFE**"), which operates a specific regime dealing with the withdrawal, outflow and conversion of foreign currencies in relation to equity-based compensation plans. The regime will involve the Subsidiary or another agent establishing a special onshore account through which all Plan-related payments must be made. Obtaining approval for the Plan may be time-consuming and costly, with many documents requiring translation. Following the initial approval, quarterly reports are required on the status of the Plan.

Data Protection

It is recommended that an employer discloses its data processing activities to employees and that an employer obtains employee consent prior to transferring his or her personal data outside of China.

Tax

Employee Tax Treatment

Employees who are taxable for Chinese individual income purposes are subject to individual income tax on the spread, as employment income, on exercise. As taxable employment income received through an option plan is taxed separately from regular monthly employment income, it may be taxed at a lower marginal tax bracket. Employees who are taxable for Chinese individual income purposes are subject to individual income tax on the gain realized from the sale of Stock.

Social Insurance Contributions

Income from the exercise of options may be subject to social insurance contributions, depending on the practice and position taken by the local labour and social insurance bureau.

Tax-Favored Program

Under current PRC tax rules, the proceeds derived from the exercise of stock options are treated as employment income and can be taxed separately from monthly salary income and therefore a lower marginal tax may apply to the equity based gains, subject to certain registration requirements with the local tax bureau. If the Subsidiary fails to comply with these registration requirements, any income related to options will be taxed together with the participant's salary income for that month so that participants will potentially be taxed at a higher marginal tax bracket on the total proceeds.

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 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.

China (cont.)

Withholding and Reporting

For Issuers offering options through plans implemented on or after 1 July 2005, withholding and reporting obligations apply on taxable employment income arising on the exercise of options.

These obligations apply if the Subsidiary is involved in implementing the Plan. The Issuer is required to translate into Mandarin and submit the following documents (wherever applicable) to the local tax bureau:

- rules of the relevant plan;
- option agreement;
- grant notice;
- exercise notice; and
- exercise adjustment notice.

The penalty for non-compliance is a monetary fine (of approximately \$250 - \$1,200). Upon the exercise of options, the employer must withhold and pay the relevant individual income tax and to file individual income tax returns with the tax authorities as the withholding agent. Failure to file and pay taxes is subject to penalty ranging from 50% to 3 times the tax due.

Employer Tax Treatment

The Subsidiary is likely to be eligible for a deduction of the reasonable costs that it incurs due to its involvement in the Plan, including the option value charged back to the Subsidiary. The Subsidiary may qualify for the deduction provided the recipients are employees of the Subsidiary and those costs are related to its business operations.

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