

Ireland

Employment

Labor Concerns

Employee entitlement claims are becoming increasingly common. The risk of an employee making a claim for additional benefits under a purchase plan may be reduced by having the employee agree to standard waiver and consent provisions. Companies should also be aware of Irish anti-discrimination laws and not exclude certain classes of employees, such as part time employees and fixed term contract workers. Retirement provisions in a scheme may be problematic from an age discrimination perspective.

Communications

There are no legal requirements specific to employee communications.

Generally, electronically executed award agreements are acceptable (the law governing the award will be relevant). Consideration may need to be given to the form of electronic execution adopted.

Regulatory

Securities Compliance

Neither the invitation to enrol nor the purchase of shares under an ESPP is likely to trigger any prospectus or other securities filing requirement, provided the rights under the ESPP offer are non-transferable rights to acquire stock.

Additional restrictions and notification requirements may apply to directors under the provisions of Irish company law. Financial assistance issues under company law should also be considered.

Foreign Exchange

There are no foreign exchange restrictions applicable to purchase plans.

Data Protection

Employee consent to the processing and transfer of personal data is a recommended method of compliance with existing data privacy requirements, although the Irish Data Protection Commissioner discourages the use of consent to legitimise transfers as the employment relationship raises doubt over whether such consent may be freely given. Additional requirements may apply for transfers of personal data outside the EEA. Certain categories of data controllers and data processors must register with the Data Protection Commissioner before processing personal data.

Tax

Employee Tax Treatment

Employees are generally subject to income tax, the Universal Social Charge (USC) and employees' PRSI on the spread at the time the purchase right is exercised. Capital gains tax may apply upon the subsequent sale of the underlying Stock, subject to certain exceptions.

Social Insurance Contributions

Benefits received from a purchase plan are subject to employees' PRSI (Social Insurance). Employer's PRSI does not apply to share based remuneration.

Tax-Favored Program

Tax qualification is available for certain purchase plans (SAYE and APSS), resulting in income tax exemption for employees.

Withholding and Reporting

From 1 July 2012 the employer is no longer responsible for withholding employee PRSI on the exercise of a purchase right by a current employee. Rather, the employee is responsible for paying all taxes arising on the gain realised at the time the purchase right is exercised. The Issuer or the Subsidiary is required to report to the Irish Revenue Commissioners any grant to employees under a purchase plan and any gain realized on purchase/exercise by 31 March after the end of the relevant tax year.

Employer Tax Treatment

In certain circumstances, a deduction, for the actual costs incurred by the Irish company in connection with the ESPP, may be allowed provided the cost is incurred wholly and exclusively for the purposes of the trade. The deduction is generally allowed only to the extent that a taxable award has been made to an employee.

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.