



GMS Flash Alert

Global Compensation Edition

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Greece - Greater Clarity from Tax Authorities on Taxation of Equity Income

A new Circular E.2208 / 24.12.2020 issued by Greece's Ministry of Finance provides clarifications regarding the tax treatment of the income which arises for an employee, or a partner or a shareholder of a legal entity, in the form of stock options, as well as in the form of free shares given within the framework of share plans that require the achievement of specific goals or the occurrence of a certain event.

In this *GMS Flash Alert*, we provide, in brief, highlights of the measures in the Circular. For more details, see the full story in "[Tax – Breaking News](#)" (March 2021), a publication of the KPMG International member firm in Greece.

WHY THIS MATTERS

Employees awarded equity compensation, their employers, and tax practitioners should be aware of the new rules concerning the tax treatment of income arising from stock options, free shares, and shareholdings that accrues to an employee, partner, or shareholder of a legal entity. For many years, the rules have been ambiguous. This new Circular, however, brings clarity and provides issuers and holders of such equity compensation with clearer indications of the position and approach of Greece's tax authorities.

It is recommended that taxpayers and their employers covered by the new rules discuss their situations with qualified tax professionals before any decisions are taken.

Highlights of the Circular

The main points of the new circular are noted below:

- **Stock options** – Several new clarifications, including that the holding period of the shares is now defined, the market value of the benefit is determined, and there are stipulations around reporting obligations.

- **Holding period** – Clarity on the holding period of the shares acquired upon exercise of the stock options, when the income can be taxed as employment income, and when a stock option is deemed to be granted.
- **Market value of the benefit is defined at exercise** – Income is determined as the difference between the closing price of the share on the stock exchange at exercise and the price of the stock option at grant (preferential acquisition price). Also, the market value of the benefit is determined on the exercise date of the stock options, regardless of whether the individual is employed at the time.
- **Taxable event is upon transfer of shares** – The taxable event is now clearly defined as at the "time of transfer of shares" which were acquired upon exercise. Now if the shares are transferred prior to the completion of 24 or 36 months, depending on the case, from the grant date of the stock options the income generated is taxable as employment income, whilst if transferred after the completion of 24 or 36 months, depending on the case, the income generated is taxable as capital gain. It is clarified that for the purposes of application of the respective provisions, a transfer is not considered to be only the sale of shares at a price, but also their donation.
- **Extra capital gain upon sale at a higher value and beneficiary's reporting obligations** –
 - In the case of listed shares, if the beneficiary participates in the company's share capital with a percentage of less than 0.5%, the capital gain from the sale of shares as above determined is tax exempt, and should be reported in the personal income tax return (Form E1), in code 659 - 660 of Table 6.
 - In the case of non-listed shares, or listed shares where the beneficiary participates in the company's share capital with a percentage of at least 0.5%, the capital gain from the sale of such shares is taxable at the rate of fifteen percent (15%), and should be reported in the personal income tax return (Form E1), in codes 829-830 or 865-866, as the case might be, of sub-Table 4E.
- **Employer's reporting obligations** – Companies granting stock options, regardless of whether they are the issuers of the titles or not (e.g., in case of stock options which relate to titles of another affiliated Greek or foreign company), should provide the employees / partners / shareholders with a hard-copy distinct salary letter relating to the tax year that the stock options were exercised, which will indicate the amount of the income as per the related provisions as well as clearly state the grant date of the stock options. At the same time, the companies should include the respective income in the monthly electronic payroll withholding return.
- **Free shares** – Income arising for an employee or partner or shareholder in the form of free shares granted by a legal entity via share plans (mentioning any employee incentive schemes: restricted Stock Units (RSUs), performance shares or performance units, restricted shares plan, matching shares or employee stock purchase plan, deferred stock, etc.), which require the achievement of specific goals or the occurrence of a certain event in order for the shares to be granted, is classified as capital gain taxable at the rate of 15%.
- **Employer's reporting obligations (free shares)** – Companies granting free shares, regardless if they are the issuers of the titles or not (e.g., in case of titles of another affiliated Greek or foreign company), should provide the employees / partners / shareholders with a hardcopy distinct salary letter relating to the tax year that the free shares were granted, which will clearly indicate the number of the shares vested as well as the value of the shares on vest date. At the same time, companies should include the respective amount in the monthly electronic payroll withholding return.
- **Granting stock options and free shares to employees of subsidiaries** –
 - These provisions are also applicable to income arising from stock option plans and free share plans of affiliated companies (either in Greece or abroad).
 - Finally, especially for tax year 2020, income derived from capital and capital gains is exempted from the special solidarity contribution.

Contact us

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