

Belgian social security contributions due on grant of shares by foreign mother company

The Belgian social security authorities have changed their administrative instructions last month: when a foreign mother company grants shares to employees of the Belgian subsidiary, Belgian social security contributions are due.

Change immediately applicable

If a foreign mother company granted shares to an employee of a Belgian subsidiary in the past, no Belgian social security contributions were due in case the Belgian company was not involved in granting these shares. In practice, social security contributions were due when:

- The cost was recharged to the Belgian entity or,
- The Belgian entity intervened in the decision process or,
- The Belgian entity was the mere contact point for employees with any questions relating to the grant of shares.

Now, the Belgian social security department has decided to change its instructions as follows. In case shares or any other benefits are granted to an employee of the Belgian subsidiary, Belgian social security contributions are due if the grant is the result of work performed in relation to the employment contract with the Belgian subsidiary or if it relates to the position of the employee with his Belgian employer. This change is immediately applicable.

Additional cost for employer and employee

In case a multinational company grants shares to employees of a Belgian subsidiary, the employer will have to pay approximately 27,5% social security contributions. The employee will incur an additional cost as well, as the employer is obliged to withhold social security contributions ad 13,07% with the employee.

Previously (see Tax Insight of August 2018), we had also come to know that for benefits, granted directly or indirectly as from January 1st, 2018 by a foreign group company to employees of a Belgian subsidiary, the Belgian entity will most likely be obliged to report the benefits in kind on the appropriate salary documents, irrespective whether the cost is cross-charged to the Belgian entity. In the same situation, the Belgian entity will most likely have to withhold and pay withholding taxes for shares or benefits in kinds granted as from January 1st, 2019.



RSM informs you

This change in position will most likely lead to a lot of discussion and disputes. It will definitely be opportune to consider the implications for multinational companies granting these types of benefits to employees of the Belgian subsidiary.

In case you would like to receive more information with respect to the above, or any other assistance, the RSM Belgium Tax team is at your disposal (intertax@rsmbelgium.be).

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