



Global Reward Services Quarterly Newsletter

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Americas



Argentina: Wealth tax changes for Fiscal Period 2023

On June 28, 2024, Argentina's congress approved Law No 27.743/2024, which created a new "Special Regime for Advance Payment of Wealth Tax" that allows tax residents and certain nonresidents to make one advance payment of the wealth tax to avoid future wealth tax payments until 2027. This change creates the opportunity for individuals to avoid future tax filings and tax payments.

KPMG observations

The ability to avoid future tax filings and tax payments through early payment of the wealth tax allows individuals subject to taxation in Argentina on their worldwide assets to have a reduced tax burden, and companies that cover wealth tax may have reduced international assignment costs.

This development means that a rate reduction could apply for taxpayers with an obligation to pay wealth tax for fiscal year 2023 so long as they are a compliant

taxpayer. The tax basis for calculating this early payment of the wealth tax is based on the value of assets as of December 31, 2023, for most assets (certain assets will be valued as of December 10, 2023). This means that appreciation of assets during the prepayment period would not provide for any additional wealth tax liability.

The law also limits the tax burden on asset taxes for taxpayers who choose to adhere to special regime (the REIBP) to a maximum of 0.75 percent until 2027 and 0.45 percent for the following 10 years.

For more information, please refer to our [KPMG Flash Alert](#) or contact your usual KPMG advisor, and/or Rodolfo Canese Mendez or Cecilia Nunez, via email at rcanese@kpmg.com.ar or cnunez@kpmg.com.ar.



Canada: Federal budget for 2024 presented (update)

Canada's Deputy Prime Minister and Finance Minister Chrystia Freeland delivered Canada's 2024 federal budget on April 16, 2024. In the budget's tax measures, there were changes that could impact individuals (including globally mobile employees) and their employers related to the capital gains inclusion rate and the employee stock option deduction. While these are draft proposals, they are likely to be passed by Parliament with retroactive effect.

The budget increases the inclusion rate for capital gains realized on or after June 25, 2024 from one half (50 percent) to two thirds (66.67 percent) on the portion of capital gains realized in the year that exceeds CAD \$250,000. The change in the capital gains inclusion amounts applies to any dispositions of assets, including deemed dispositions on a departure from Canada or death. In addition, the budget reduces the stock option deduction on qualified options from one half (50 percent) to one third (33.33 percent) of the stock option benefit recognized for options exercised on or after June 25, 2024 if above CAD \$250,000 calculated on the value at date of exercise. The CAD \$250,000 maximum combined threshold includes both capital gains recognized annually and option benefits realized in the same year.

This change won't affect the taxation of cash settled restricted stock units or performance stock units, as they are not eligible for any deduction in Canada.

The budget notes that net capital losses of prior years would continue to be deductible against taxable capital gains in the current year by adjusting their value to reflect the inclusion rate of the capital gains being offset. As a result, a capital loss realized prior to the rate change would fully offset an equivalent capital gain realized after the rate change.

The budget also provides transitional rules for tax years that begin before and end on or after June 25, 2024, where two different inclusion rates would apply. Effectively, the annual CAD \$250,000 threshold for individuals would not be prorated in 2024 and would apply only in respect of net capital gains realized on or after June 25, 2024.

On June 10, 2024, Finance Canada released draft legislation to clarify questions that were raised after the April 2024 budget. **The new clarifications provide that employers should withhold income taxes on qualified stock option exercises or dispositions at the one-third reduction rate, i.e., only reduce the taxable income by one third (instead of 50 percent) even if ultimately the employee is entitled to the 50-percent deduction rate. In addition, for purposes of the CAD \$250,000 threshold applicable to the 50-percent rate, any stock option deduction claimed at that rate will reduce the amount of capital gain that is eligible for the lower rate.**

Since the draft legislation has been released, there has been some confusion around the 2021 legislative changes and the 2024 proposed legislative changes. On the following page, we clarify these rules and how they apply to stock option benefits recognized on or after June 25, 2024.

2021 legislative changes:

- These rules applied to corporate groups with gross revenue of over CAD \$500 million effective for (otherwise qualified) stock options granted as of July 1, 2021. The annual threshold of CAD \$200,000 per year of exercisability of the options determines the number of options that are qualified for a deduction. It is calculated on the grant date value of the underlying stock. Any grant in excess of the dollar threshold does not qualify for any employee stock option deduction.
- This is similar to the Incentive Stock Option(s) rule in the US, where if the exercise price at the grant date was \$1, with a four-year vesting schedule (exercisability), then an employer could grant up to CAD \$800,000 as qualified stock options (CAD \$200,000 per year assuming a \$1 exercise price). Any stock options the company granted in excess of this dollar threshold limit are nonqualified and do not qualify for the employee stock option deduction whatsoever.
- Note that employers also have the right to override the qualified nature of options within the CAD \$200,000 threshold. Such override election would affect any options granted after the election. For instance, if options are granted in 2022 and a second grant is to be made on October 1, 2024, the employer has until September 30, 2024 to file an election to override the otherwise qualified status of some or all of the 2022 grants. Instances where they may do so include if they prefer to claim the corporate deduction on such options or if they determine that the employee may not realize much of a taxable benefit on those options (e.g., in part to Canada or high exercise price) and wish to avoid tainting other option grants that may have a higher taxable benefit.
- There were grandfathering provisions on this rule for qualified stock options granted before July 1, 2021.

Proposed 2024 draft legislation:

- The proposed rules apply to any qualified stock options exercised or disposed of on or after June 25, 2024.
- The budget increases the inclusion rate for capital gains realized on or after June 25, 2024, for individuals from one half (50 percent) to two thirds (66.67 percent) on the portion of capital gains realized in the year that exceed CAD \$250,000. [NTD: The increase in the capital gains inclusion applies to all capital gains, whether related to option shares or not.] In addition, for qualified options, the budget reduces the stock option deduction from one half (50 percent) to one third (33.33 percent) of the stock option benefit recognized for options exercised or disposed of on or after June 25, 2024 that are above the CAD \$250,000 threshold calculated on the value at exercise. The CAD \$250,000 maximum combined threshold includes both capital gains recognized annually and option benefits realized in the same year.
- From an employer reporting perspective, there are two decisions to be made for Canadian T4 tax reporting purposes for the 2024 year: reporting for stock option exercises occurring before June 25, 2024 and reporting for stock option exercises occurring on or after June 25, 2024. However, the Canada Revenue Agency has not yet issued new T4 reporting templates to enable both individuals and their tax advisers to determine how this would work and should be reported.
- From an employer withholding perspective, absent a fixed flat one-third deduction, it would not be clear on what amount and at what rate they should perform tax withholding and reporting because it will only be known at the end of the tax year, when the final individual tax return is filed, the combined capital gain and stock option benefit that has been recognized by the individual and the individual has decided, on their return, to what extent to allocate the CAD \$250,000 threshold to options or to capital gains. The employer would not have visibility to what stock options have been recognized, capital gains realized in the year, or tax return allocation made by the employee.

- From CRA's point of view, this new rule avoids "double-dipping" on capital gains and option benefits because once an individual reaches CAD \$250,000 for both, anything above can only have a one-third deduction rate for options and two-thirds inclusion rate for gains.
- Another complicating factor is that it is the individual employee who has the right to allocate the CAD \$250,000 threshold between the option benefit and the capital gains. Therefore, employers will not be aware of what the employee has selected until they file their Canadian tax return.
- Why choose one or the other? Perhaps the employee has loss carryforwards, so may not care about capital gains for that year. Or perhaps the employee is an inpatient and the Canadian tax on options will be small due to foreign tax credits, so they may not care whether the deduction rate is 50 percent or 33.33 percent.

What are the payroll implications?

- CRA has not yet issued guidance to employers on whether they would waive penalties if employers continue to process payroll based on a 50 percent option deduction on the basis that the rules have not passed yet. That being said, however, the proposed legislation is retroactive to June 25, if it passes, which is likely.
- From a statutory interpretation perspective of the way in which the legislation is drafted, employers are authorized to withhold on an amount that is reduced by one third of the stock option benefit on qualified options under the assumption that this deduction rate will apply to options. Previously, the employer was expected to apply a 50 percent reduction on qualified options and withhold on one half the stock option benefit.

If employers choose to continue taking a 50 percent reduction on the stock option gain, then there is a risk of a 10 percent underwithholding penalty, calculated as 10 percent of what should have been withheld. Given that the legislation will be retroactive if passed, employers must assess the risk of reducing the stock option benefit by more than one third.

Do employers still need to track the threshold to assess which awards are eligible for the deduction?

There are three separate issues:

(1) Do the options constitute "qualified options" (i.e., do they qualify for ANY deduction) ?

Employers still need to track options that constitute qualified options. For large employers, the limit for qualified options is CAD \$200,000 per year of exercisability (similar to the Incentive Stock Option [ISO] limit). The employer must track for all option grants how much (based on grant date values) of the option vests in any given year.

If multiple grants of options vest in the same year (for example, 2024), then Canada uses a First-In-First-Out principle. The CAD \$200,000 limit for the 2024 year of vesting is first used up by the options that were granted before, and then, if there is any of the CAD \$200,000 limit left, by the options granted second, and then if any limit left by the options granted third, and so on. In determining which options are qualified, the benefit at exercise is totally irrelevant, and the employer does not need to be concerned about that (just like with the ISO limits only being relevant based on grant date value, and the employer does not need to monitor the spread at exercise).

(2) If they do qualify, at what rate does the employer withhold on the qualified options?

This will ALWAYS be at the one-third deduction amount, for qualified options (or 0 percent for nonqualified options). The employer does not need to monitor how much of an option benefit is realized at exercise, or what is exercised early in the year versus later in the year. The tax withholdings will ALWAYS be on two thirds of the option benefit (the spread at exercise). Thus, there is no need for the employer to worry about the CAD \$250,000 threshold.

(3) If they do qualify, at what rate is the employee ultimately taxed?

For this, the employee looks at ALL qualified option spreads on qualified options exercised during the year, and All capital gains realized in the year, and claims the 50 percent rate on qualified option benefits/gains up to CAD \$250,000, and then the two-thirds capital gains tax (CGT) rate and one-third option deduction on benefits/gains in excess of CAD \$250,000. Other than for 2024, it does not matter whether the options or gains were realized in January or December—the employee totals all events taxable in the year.

For example, if the total qualified option benefit is \$220,000, the total nonqualified option benefit is \$400,000, and the total gains are \$80,000, then on the tax return, this individual can choose to use the lower 50 percent inclusion rate on either:

- (a) \$220,000 of options and \$30,000 of gains
- (b) \$170,000 of options and \$80,000 of gains
- (c) \$190,000 of options and \$60,000 of gains

As long as the total does not exceed CAD \$250,000, any other option benefit or gains are subject to the one-third option and two-thirds CGT rate. Note that none of this is tracked by the employer; only the employee is required to do so for tax return purposes.

KPMG observations

This rule change has extensive repercussion for employees, particularly mobile employees, given it is now difficult to make cost projections, since it is the employee's choice how to allocate the CAD \$250,000 threshold across stock option benefits recognized and capital gains for the relevant tax year, and the employer has no visibility into how the employee will make this allocation. In preparing tax returns, tax advisers could make assumptions around how this allocation would be most beneficial to an employee, which begs the question, "What responsibility do companies and their advisers have in determining this allocation for tax equalized employees—should it be more favorable to the company or to the employee?"

This is likely to impact senior executives who have capital gains realized.

It can also provide an incentive for employers to re-examine their equalization policies for inputs into Canada, as the Canadian tax on both personal capital gains and option exercises could be higher.

Note that whether a stock option grant qualifies for the stock option deduction is a separate question and is not impacted by these rules. These rules drive the level of the stock option deduction—whether it will be one half or one third reduction of the stock option income recognized by the employee in a particular tax year. Importantly, note that the way in which the legislation is currently drafted, an individual can voluntarily claim the stock option deduction first and apply the balance to capital gains. While both stock option income and capital gains are taxed at marginal income tax rates, in essence this could be a choice between a reduction on taxable employment income versus an increase in taxable gain.

This means the CAD \$200,000 threshold limit still stands, to determine whether an award is treated as a qualified award or not, and such determination is made at grant (just like ISOs). To determine the available deduction (whether 50 percent or 66 percent for CGT purposes and 50 percent or 33 percent for option deduction), we apply the CAD \$250,000 threshold in the year of exercise or gain recognition. However, the onus of monitoring the CAD \$250,000 threshold is on the employee, not the employer, who always withholds on option benefits at two thirds of the option spread at exercise.

For more information, please reach out to your usual KPMG advisor, and/or Sonia Gandhi or Peter Megoudis via email at soniagandhi@kpmg.ca or pmegoudis@kpmg.ca, or refer to the [KPMG Flash Alert](#) issued on this.



United States: Stock repurchase excise tax rule passed by Treasury Department

Legislation enacted in 2022 introduced a nondeductible 1 percent excise tax on the net value of certain share repurchases by publicly traded domestic corporations and their subsidiaries, effective from January 1, 2023.

The excise tax is required to be filed by the due date for the Form 720—Quarterly Federal Excise Tax Return, meaning that the first payment for a calendar year taxpayer's first filing for 2024 will be due on April 30, 2025.

KPMG observations

Nearly two years after legislation was enacted introducing the stock repurchase excise tax, final administrative and procedural regulations have been released to clarify how and when taxpayers should report such repurchases to the IRS and submit payments for the excise tax.

In general, the stock repurchase excise tax return is required to be filed by the due date for the Form 720 for the first full calendar quarter after the end of the taxpayer's tax year. As a result, the 2024 filing, for calendar year taxpayers, will be due on April 30, 2025. Taxpayers should review their filing requirements in order to timely meet their filing deadlines.

For more information, please refer to the [KPMG Report](#) dated July 2, 2024 or contact your usual KPMG advisor.

Asia Pacific



People's Republic of China: Update on tax treatment and management of equity incentives

A recent announcement on April 17, 2024 by the State Administration of Taxation (STA) and the Ministry of Finance extended the preferential income tax IIT treatment for equity incentives granted by *domestic* listed companies to 2027 and allowed a 36-month deferral of the IIT payment for eligible plans. Notably, this was not extended to foreign listed companies.

The announcement also emphasized that one of the qualifying conditions for tax deferral treatment was being in full compliance with plan registration requirements of the competent tax authority.

KPMG observations

Under this announcement, there is no extension for equity incentives granted by overseas listed companies to domestic employees, so *overseas* listed companies and/or their domestic subsidiaries should take these steps:

- Understand how the regulatory changes might affect them
- Estimate and simulate the potential cost implications of the policy changes, and proactively communicate with employees
- Continue to meet the relevant tax information reporting and filing requirements.

For equity incentives granted by overseas listed companies to domestic employees, taxes must be remitted via payroll withholding upon vesting/exercise/purchase for employment income. A self-declaration should be performed upon distribution or disposal as a dividend or capital gain, respectively. For private companies, tax preferential treatment is generally not available for equity incentives granted by overseas private companies. However, the practice may vary between cities, which should be discussed with in-charge tax authorities on a case-by-case basis.

In addition, the STA and the Ministry of Finance issued another announcement on January 31, 2024, which emphasized the need to comply with tax reporting requirements. In audit inspections completed for the tax year 2023, the authorities clarified that where multiple awards are received, there needs to be a consolidated tax computation and related reporting. The responsibility is on the employer to ensure the computations are correct in accordance with Chinese income tax rules. Importantly, where an employee has received equity incentives from his/her previous employer but has not provided relevant information to the current employer for consolidated tax filing, companies should communicate with the employee and provide necessary guidance to help ensure that the equity incentive income in the tax year is correctly filed within the period for the annual reconciliation filing. Many companies have requested to refile their returns upon audit.

As such, the STA appears more focused on tax compliance with plan registration requirements as well as tax reporting and withholding, and the new requirement of reporting equity incentives granted but not realized from a prior employer. We strongly recommend a review of these tax computations to ensure accuracy and consolidate them monthly and report them in accordance with the Chinese income tax rules.

For more information, please refer to our [KPMG Flash Alert](#) or contact your usual KPMG advisor, and/or Michelle Zhou, via email at michelle.b.zhou@kpmg.com.

Europe



Germany: Federal Tax Court clarifies taxation of partners in international law firms

Germany's highest tax court, the Bundesfinanzhof (BFH), ruled that certain guaranteed payments in the US from a US law firm to its German partners are exempt from German income tax under the US-Germany income tax treaty (Treaty) to the extent they are attributable to a US permanent establishment. The ruling clarifies the domestic tax-exempt treatment of profit share distributions under the Treaty regardless of whether the payments were taxed in the US.

KPMG observations

This decision, published on May 2, 2024, clarifies the tax treatment of international law firm partners and contradicts the German tax authorities' stance on treaty interpretation. The BFH upheld that the profit shares, including guaranteed payments, are tax-exempt in Germany, as the conditions for reverting taxation rights to Germany were not met. Thus, profit sharing arrangements where the income in question is also not taxable in the US will not be taxable in Germany, on the basis it is attributable to a US permanent establishment. US-headquartered law firms can make these distributions to German partners and no taxation should arise in Germany. It is not clear whether the German tax authorities will appeal this decision.

For more information, please refer to our [KPMG Flash Alert](#) or contact your usual KPMG advisor, and/or Andreas Peter, via email at andreaspeter@kpmg.com.

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