The deemed exercise rule and the QEEBR deferral

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Two features of the share plan regime are relevant to a mobile crypto workforce. The deemed exercise rule applies to a non-citizen employee who ceases Singapore employment or leaves Singapore for more than three months. He is treated as having exercised all unexercised options and as having vested in all unvested share awards on the date of cessation. Tax is computed on the value at that date or, if lower, on the value one month before.[1] The rule exists to collect tax from employees who would otherwise leave with unexercised options and never return. It applies to shares and tokenised shares. It does not apply to token grants that are not shares, because they fall outside section 10(6). A foreign engineer who leaves Singapore with unvested governance tokens therefore has no deemed exercise and is taxed, if at all, in his new country of residence when the tokens vest.

The Qualified Employee Equity-based Remuneration Scheme (QEEBR) allows an employee to defer the tax on share option and share award gains for up to five years, with interest at the prime rate, provided the plan and the employee meet the scheme's conditions. The deferral recognises that an employee may hold illiquid shares and cannot pay tax on paper gains.[2] QEEBR does not apply to token grants that are not shares. The result is a mismatch that every Singapore token company

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faces. An employee with a vested token grant worth S$ 2 million and no market to sell in owes tax on S$ 2 million with no deferral. A colleague with an equivalent share award can defer for five years. The practical remedy is for the company to deliver a cash component or to sell tokens on the employee's behalf to fund the tax, both of which require the company's treasury to be organised for the purpose.

Practice note

If you run a Singapore token plan, structure it so that every vesting date is also a liquidity date. Vest tokens on dates when the token is tradeable, deliver a cash bonus sized to the employee's marginal tax on the vesting value, or operate a sell-to-cover mechanism through a licensed exchange. Document the valuation method for each vesting date and apply it consistently. Issue each employee a statement showing the Singapore-dollar value at vesting so that the employee can complete his return. A plan that ignores these points produces staff who owe tax on tokens they cannot sell, which is the most frequent cause of attrition I have seen in Singapore crypto teams.

Notes

1. Income Tax Act 1947, s. 10(7) and the related provisions on the deemed exercise rule for foreign employees ceasing employment or leaving Singapore; IRAS, *Tax Treatment of Employee Share Options and Other Forms of Employee Share Ownership Plans*, section on the deemed exercise rule. ↩
2. IRAS, Qualified Employee Equity-based Remuneration Scheme, conditions and application procedure (deferral of up to five years with interest; application by the employee with the employer's confirmation). ↩

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