Employee Equity Compensation Scheme

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Overview

- Employment benefits are the non-salary considerations including bonuses, benefits hardship, medical or transport allowances availed to employees.
- Employment benefits can be classified as cash and non-cash benefits (benefits in kind).
- Cash benefits are the non-salary considerations availed on a cash basis including bonuses, gratuity, and payment in lieu of leave while benefits in kind include non-salary considerations availed on a non-cash basis such as the use of motor vehicle or residential premises, premises cafeteria services and the related.
- Section 7 of the Income Tax Act (ITA), 2004 guides on items to be included and excluded in the computation of gains or profits from an individual's employment, given the stated conditions are met.

What is equity compensation?

- Equity compensation, also known as stock-based compensation, refers to various non-cash remunerations received as part of a pay package.
- Equity compensation can be offered to employees and sometimes outside service providers such as contractors, advisors, directors, consultants, and the related, providing an ownership stake in the company.
- The amount of compensation received is usually aligned with the value of the Company's stock.
- A Company ought to arrange an equity compensation policy indicating the types of share compensations, underlying conditions, and vesting period.

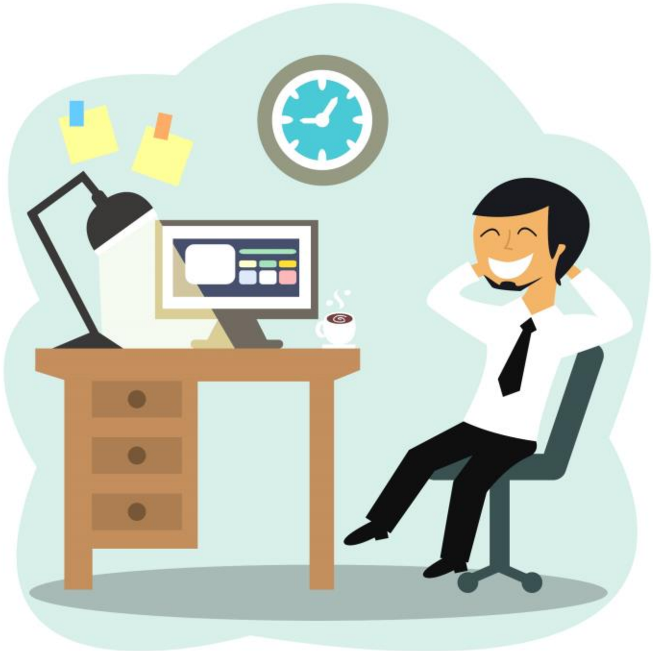
Why equity Compensation?

- An incentive scheme for motivating or retaining employees.
- Having an ownership interest in the Company can align the employer and employees' goals and long-term interest of the Company.
- Equity compensation in place of a high salary can assist in cash flow management.

Types of equity compensation plans and benefits:

There are many types of equity compensation; each has unique characteristics and preconditions to meet. Examples of equity bases compensations include:

- Options
- Forfeitable Shares
- Phantom conditional shares
- Phantom options.
- Performance shares
- Employee stock purchase plans
- Restricted stock and the related



Tax Implications to the Employer:

- The Schedule to the Stamp Duty Act sets out instruments that are chargeable to stamp duty and the applicable stamp duty amount/rate.
- Equity-based compensation is considered to include a transfer of shares, thus liable for stamp duty at the rate of 1% of the values of the shares.
- The equity-based compensation may also involve the payment of dividends. Dividends are subjected to withholding tax and are considered to be final withholding tax.
- The Company is liable to withhold and pay withholding tax at the rate of 10% of the issued dividends.

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Tax Implications of Equity-Based Compensations:

- Section 7(2) of the ITA, necessitates all payments, all benefits including benefits in kind which are made in respect of employment to be included in calculating the individual's income from employment.
- Share options compensation to employees constitute benefit derived in the course of employment. However, there should be considerations of the time when the share option becomes a benefit, for the purposes of employment tax, that is between when they are offered, or when rights on shares are vested.
- Currently our tax laws do not specifically address the taxation of share option schemes hence, a general interpretation is adopted. As a general rule, taxation of an amount is triggered when the person is entitled to receive an amount which in this case, is when the shares are vested.
- Subsequently, share options are considered as the benefit derived in the course of employment when the employee acquires rights on the share and not when the share options are offered. The value of share options will be included in calculating an individual's gain or profit from employment when the person has acquired rights on the shares such as when the conditions under the scheme are met by the employee.
- Therefore, the employer will account for employment tax at the time when the employees' equity options are vested and remit the same to TRA.
- Section 9 of the ITA entails net gains from the realization of investment assets to be included in calculating a person's gains or profit from conducting an investment.
- Section 3 of the ITA defines investment assets to include shares thus when the shares are vested the employee will acquire an investment asset.
- When the investment asset (vested shares) is realized through sale or exchange for other economic gains, gains resulting will be required to be included in calculating a person's income from investment.

- The definition of realization of an asset from section 39 of ITA includes when the asset is sold, transferred, exchanged, canceled redeemed, destroyed, lost, expired, or surrendered. Thus, when a person subsequently sells the vested shares, gains resulting from such sale will be required to be included in calculating a person's income from conducting an investment.
- Moreover, this will also trigger individual tax return filing requirements as guided by section 91 of the ITA, on the basis that the individual will have additional income apart from the employment income.

Our Services

Audit and Assurance

- Statutory audits
- Internal audits
- Forensic audit and risk assessment
- Assurance engagements
- Drafting Standard Operating Policies (SOPs)
- Fixed Assets Register preparation
- Fraud audits and inspection
- IFRS reporting
- Management and operational audits
- Business control services
- Corporate reporting

Tax and Advisory

- Tax Audits
- Transfer Pricing
- Transactions based advisory
- Transfer of shares and securities
- VAT refund applications
- Post clearance Customs Audit
- Account Reconciliations with Tanzania Revenue Authority
- Tax applications on Mergers and acquisitions
- Due Diligence reports
- Tax training
- Tax Health checks
- International Tax Services

Finance and Accounts

- Cloud accounting and accounts compilation
- Reconciliation of statutory compliances such as sales, imports, purchase, payrolls, bank and VAT control
- Ledger scrutiny, Variance and ratio analysis
- MIS reporting
- Business Plans
- Financial Projections and Cash Flow Forecast
- Valuation of business
- Financial reporting
- Payroll processing

Secretarial Compliance

- Incorporation of company
- Change in company particulars
- Corporate Advisory
- Human Resource Management
- BRELA compliance
- Mortgages and charges
- Employee Litigation
- Registration with TBS TMDA
- Processing permit applications
- Merger and Acquisitions & FCC compliance
- Loan registration with BOT
- Business License
- Trademark and Patent rights
- Winding up of business

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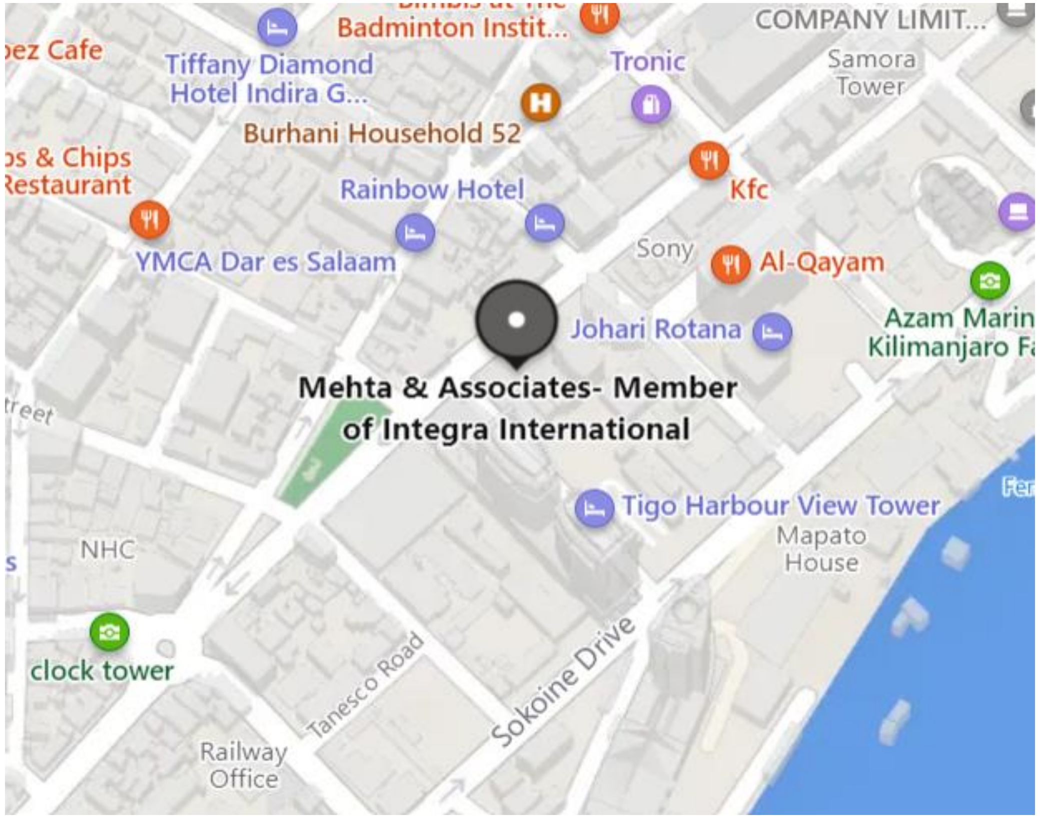

Disclaimer:

Our review highlights the main aspects of the Employee Equity Compensation Scheme as per Section 7 of the Tanzanian Income Tax Act RE 2019. Any opinions or estimates contained in this publication represent our understanding at this time and are subject to change without notice. While all reasonable care has been taken in the preparation of this highlight, we accept no responsibility for any errors it may contain or for any omissions or otherwise or for any loss, howsoever caused or sustained, by the person who relies on it.