Corporate Initiative

“We believe it is good corporate governance for a company to inform its international executives, managers and employees that when accepting equity compensation, they are exposed to U.S. inheritance taxes.”

U.S. inheritance taxes

In the last few years the regulatory environment for international executives working for U.S. companies has become increasingly complex. The U.S. in particular is increasing its reach by imposing its tax laws beyond its borders.

Most challenging are the U.S. inheritance taxes. Employees who receive assets from a U.S. company (such as shares and options) are exposed, regardless of ***nationality*** and ***domicile***.

In case of death, all accounts and assets based in the U.S. will be blocked and not released before completing the IRS filings.

Taxation of non-U.S. citizen/resident

There is an important distinction to how these taxes are applied for non-U.S. persons. Where a U.S. taxpayer currently enjoys a tax free amount of more than ***USD 5 million***, a non-U.S. taxpayer will only have ***USD 60,000***.

Assets at risk

Contrary to common knowledge it is not only real estate and alike that is considered when estate taxes are applied. All of the below and more are at risk:

- Shares & stock options in U.S. corporations
- U.S. based pension plans
- USD cash, U.S. common stocks and bonds held with U.S. banks and brokers
- U.S. real estate (property)

U.S. - European situation

While a minority of European countries do have estate tax treaties with the U.S., in reality and for practical purposes, they do not provide sufficient protection from U.S. estate taxes. What the estate can expect to achieve, after extensive and costly process, is a small tax credit.

Tax rates

The rate begins with 18 percent for the first $10,000 of adjusted taxable estate and continues to rise until it tops out at 40 percent for adjusted taxable estates of more than $1’000,000.

Estate amount over $60’000	Estate/Inheritance tax
$10'000	18%
$40’000 - $60’000	**24%** of excess over $40’000
$80’000 - $100’000	**28%** of excess over $80’000
$150’000 - $250’000	**32%** of excess over $150’000
$500’000 - $750’000	**37%** of excess over $500’000
Over $1'000'000	**40%** of excess over $1000’000

Source: IRS

Why companies take action
Attracting the best people is what gives the company a competitive advantage. This many times includes offering Long Term Incentive Plans. In this context, ignoring the U.S. inheritance tax risks would go against company values by leaving its employees vulnerable and exposed.

a) Reputation risk

- ✓ Avoid "the morning after" events, similar to the recent Volkswagen scandal where the company knew about issues but did not take proper action to address them.
- ✓ Liability/Lawsuit from the estate: The employee could claim that the company acted out of negligence, as the executive was not informed of the risks that were associated with owning U.S. based assets.
- ✓ Protecting employees' wellbeing and their participation in the company's success is in everybody's best interest. It is good corporate governance. Failing to do so will have a direct impact on the HR department's credibility.
- ✓ Difference in treatment/level of support offered to U.S. expats vs. local employees. Many U.S. corporations provide compensation for U.S. expats on their non-U.S. inheritance taxes (in fact most taxes are compensated).

b) Loss of significant wealth for employees and their families

- ✓ Current legislation is not sufficient to protect European individuals against U.S. inheritance taxes.
- ✓ Assets and accounts are frozen and not available to the heirs until they complete the IRS administration process and filings.

Why Catey

For more than 20 years we have analysed compensation plans of Fortune 500 companies. This has given us an unrivalled knowledge in our field.

Catey has a proven education process that informs of the risks and obligations associated with holding U.S. based assets.

In cooperation with local HR, Catey identifies employees who could have an exposure to the U.S. inheritance taxes.

General Information Presentation (Basic)

For employees who need to be informed, Catey implements an information session on company premises. All participants sign an acknowledgment form confirming the following:

- ✓ That they have been informed about the U.S. estate/inheritance tax risks.
- ✓ That the company will not be held responsible or liable for any potential taxes.
- ✓ That they have been recommended to seek professional advice regarding their personal situation.

One to One Session (Advanced)

For employees with severe risks and significant exposure, Catey conducts one to one sessions including the basic information above and:

- ✓ An extensive analysis of the employee's U.S. situs assets.
- ✓ Information on relocation of transferrable assets.
- ✓ Information on alternatives for the protection of the non-transferable assets; consistent with the company's compensation plan rules and applicable tax laws.

Our aim is to ensure that employees are informed, the company is protected from risk of lawsuits and maintains a strong corporate governance.