

Changes to Polish Income Tax Treatment of Employee Equity Awards

February 7, 2011

The Polish government recently adopted an amendment to Article 24.11 the Polish Personal Income Tax Law (PPIT) which, effective January 1, 2011, restricts the ability to defer tax on the awards. Article 24.11 of the PPIT provides an exemption for employees to defer the taxation of their equity based awards until the sale of the underlying shares so long as: (i) the shares which were delivered at vesting or exercise were newly issued shares, and (ii) the equity awards were approved by a resolution of the shareholders of the granting company. Effective January 1, 2011, the amendment broadens Article 24.11 by expanding the types of shares eligible for the exemption to existing shares (in addition to newly issued shares), but narrows the exemption by limiting the types of shares to those issued by an entity headquartered in the European Union or the European Economic Area. U.S. companies with equity based compensation plans in Poland should consider the effect of this amendment as their employees may no longer be eligible for the deferral exemption.