



LAGOS STATE GOVERNMENT

PUBLIC NOTICE



TAXATION OF EMPLOYEES SHARE/STOCK OPTIONS

The Lagos State Internal Revenue Service (LIRS) is issuing this Public Notice to all employers, company owners or their representatives, employees, high net worth individuals and other members of the public.

Definition

Share/Stock options agreement gives employees the right to a company's shares based on prices agreed on the initiation date (grant date). However, the employees must wait for an agreed period (known as the vesting period) before they can exercise the right.

Legal basis

Based on Section 3 (b) of the Personal Income Tax Act (PITA), any salary, wage, allowance, other gain or profit from employment granted to an employee is a taxable income. More often than not, the employees are issued the share/stock options at prices below the market value of the stock. This arrangement gives rise to a benefit in kind which is taxable in the hands of the employees.

Compliance Requirements

1. Deduction of PAYE: The employer is required to compute tax on the difference between the actual share price and exercise price and remit to the relevant authority. The obligation to deduct tax arises on the exercise date or the effective date of payment for phantom shares. The share price for a public limited liability company is the value for which the shares are traded on the stock market at the date of exercise. For non-listed companies, the price per share is the net assets of the company issuing the shares (reported in its penultimate financial statement) divided by the number of shares. The taxable benefit for a phantom share is the cash payment made to the employee.
2. Employers are required to remit the tax deduct on 10th day following the month that the shares were exercised. The LIRS will enforce the provisions of PITA where an employer fails to deduct or remit the taxes due.
3. Reporting Obligation: Every employer is required to file, alongside their annual returns, a schedule showing the information on its employees share options.
4. Other Issues:
 - a) Where the employee does not own legal title to the shares (e.g. in the case of phantom shares or unvested shares), whereby a dividend equivalent is payable, the payment will be liable to personal income tax in accordance to PITA because the payments are not actual dividends. The employer is required to deduct PAYE.
 - b) Withholding Taxes: Upon exercise, any dividend paid to individuals that are shareholders is liable to WHT at 10%.
 - c) Where shares are given for free, i.e. it is not assumed that the employees will acquire it through an exercise or a right to buy, the benefit shall be valued using the principles above and subject to PAYE.

For further enquiries, please call **0700-CALLLIRS (0700 2255 5477)** or visit **www.lirs.gov.ng**

Thank You

Signed
Ayodele Subair
Executive Chairman
Lagos Internal Revenue Service

Lagos State Internal Revenue Service

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