

Wood Guidance

Employee Share Plan

Tax Guide – India



Wood Guidance Employee Share Plan Tax Guidance – India

This information is for guidance only and may differ according to your personal circumstances. Other than for the 'Income tax and social tax for mobile employees' section, it assumes that for tax purposes you are a domiciliary, national and resident of India and have been/will be at all material times – i.e. from the date on which you purchase your first shares in the Plan until the end of the Plan period 24 months later – this is known as the Holding Period.

The 'Income tax and social tax for mobile employees' section outlines the tax treatment for your shares if you have spent time working outside India – for these purposes, it is assumed that you are tax resident in the respective countries where you are working at the relevant times.

This is not tax advice tailored to your personal situation. If you require confirmation of your personal tax position, you should contact a professional tax advisor.

This information is understood to be correct as at 6 November 2018. Any future changes to legislation or tax rates may affect this information.

Income tax and social tax

Will I have to pay income tax or social tax in respect of my Shares?

The table below sets out the tax point and the taxable amount for the shares received under the Plan:

Income tax and Social Security		
	Point at which tax will be paid	Taxable amount
Purchased Shares	No income tax or social tax will apply.	N/A
Matching Shares	Income tax (consisting of federal, state and local taxes) and social tax will be payable when your Matching Shares are delivered to your personal account following the end of the Holding Period. This is known as the Delivery Date.	The amount subject to income tax will be the market value of the shares on the Delivery Date.
Dividend Shares	You will be taxed upon receipt of the cash dividend used to acquire Dividend Shares. No social tax will be payable on this amount	The amount subject to income tax is the cash dividend received and used to acquire the Dividend Shares.

How do I pay the income tax and social tax in respect of my Shares?

Your employer will withhold the income tax and social tax payable on the Matching Shares. Your employer will **not** withhold any income tax due on the dividend income used to acquire the Dividend Shares. You are responsible for any tax due on the dividend income.

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Income tax and social tax for mobile employees

Will I have to pay income tax or social tax in respect of my Shares if I have only spent a portion of the Holding Period working in India?

If you are tax resident and ordinarily tax resident in India at the delivery date of the Matching Shares, your matching shares will be taxable in India on the entire gain. However, you may benefit from exemption with progression or from a foreign tax credit in India (FTC) for the portion of the gain which corresponds to duties performed outside of India, provided an international tax treaty has been signed between India and the other country in which the individual has performed his duties.

Where you are a non-Indian tax resident at the delivery date of the Matching Shares, the Matching Shares will be taxable in India on the portion of the gain relating to duties performed in India.

Based on the OECD position for awards and on a tax guideline issued by the Indian tax authorities, the award gains should be allocated on a prorata basis on an acquisition to delivery basis (based on the number of days of the employee assignment in India (worked days and non-worked days) during the holding period).

How do I pay the income tax and social tax due in respect of my Shares?

Your employer will withhold the income tax and social tax payable on the Matching Shares.

Your employer will **not** withhold any income tax due on the dividend income used to acquire the Dividend Shares. You are responsible for any tax due on the dividend income.

Sale of shares

Will I incur a further tax liability and social tax when I sell my Shares?

You may be liable to pay capital gains tax on any gains arising when you sell your shares. The taxable gain is calculated as the difference between your sale proceeds and the total of: (i) the amount that you paid for the shares (for your Purchased Shares and Dividend Shares) and (ii) any amount previously subject to income tax (for your Matching Shares).

Gains on shares held for 36 months or less are designated as short-term capital gains and are taxed as income at the applicable marginal rates of income tax (plus surcharge and Health and Education Cess). Gains on shares held for more than 36 months are designated as long-term capital gains and are taxed at 20% (plus surcharge and Health and Education Cess). Different time frames and rates apply to shares listed on an Indian stock exchange.

You are responsible for reporting any chargeable gains and paying any tax due via your personal tax return (see below).

Reporting

Will I have any reporting requirements?

You must file an annual tax return. Equity-related incentive income is included in the Statement of Perquisites (Form 12BA). The filing is not specific to equity-related incentives.

You must report all worldwide income and foreign assets to the relevant tax authority.

Report name: Income Tax Return. The specific tax return will depend on the employee's income. The employee should use the Tax Deducted at Source (TDS) certificate (Form 16) and Form 12BA provided by the employer to complete his/her annual tax return. Foreign assets and income are reported on Schedule FSI of Form ITR-2.

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For individuals with an income over INR5million, the return must be filed online. For individuals with annual income below INR5million, the return can be filed online or in paper form. Tax returns can be downloaded from this website: <http://www.incometaxindia.gov.in/Pages/tax-services/file-income-tax-return.aspx>.

Tax period: 1 April to 31 March.

Reporting deadline: the employer must deliver Form 16 and Form 12BA to employees by 31 May following the end of the tax year, and tax returns must be filed by 31 July. Payment of any unpaid tax is due by 31 July.

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Appendix 1 – relevant tax rate summary

This appendix sets out the relevant tax rates in the US, for the tax year ending 31 December 2018.

Income tax		
	Maximum effective tax rate	Notes
Federal income tax	35.88%	<p>Income tax rates are progressive and the top rate is 30%.</p> <p>In addition to income tax, taxpayers must contribute: (i) a surcharge on the income tax, being 10% if taxable income is between INR5million and INR10million, and 15% if taxable income exceeds INR10million; and (ii) a Health and Education Cess of 4% of the total of income tax and surcharge.</p>

Dividends and capital gains tax		
	Maximum effective tax rate	Notes
Dividends	35.88%	Dividends received from foreign companies are taxed as income at the applicable marginal rates of income tax (plus surcharge and Health and Education Cess).
Capital Gains	35.88%	Gains on shares held for 36 months or less are designated as short-term capital gains and are taxed as income at the applicable marginal rates of income tax (plus surcharge and Health and Education Cess). Gains on shares held for more than 36 months are designated as long-term capital gains and are taxed at 20% (plus surcharge and Health and Education Cess). Different time frames and rates apply to shares listed on an Indian stock exchange.