

# **Employee Stock Options in the EU and the USA**

*FINAL REPORT*

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Austria

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# **Austria**

## **1. General remarks**

### **1.1 History**

1.1.1 Stock options have been an instrument of employee compensation from the mid-1990s when the number of Austrian companies obtaining a listing on the stock exchange increased significantly. Significant amendments and changes in tax law and company law were introduced in 2000.

### **1.2 Current situation**

1.2.1 Stock option plans exist in a variety of companies and industries. However, there are no statistics available which indicate the number of plans currently in operation in Austria.

1.2.2 Since 2000, the taxation of individuals who receive stock options has been regulated in Austria<sup>1</sup>. However, there are no specific rules for the taxation of companies regarding stock options. This is currently under discussion in Austria.

## **2. Key features of stock option plans**

2.1 There is no minimum or maximum term for which the stock options must subsist<sup>2</sup>.

2.2 It is entirely at the discretion of the company to decide to whom options should be granted under a stock option plan. However, all employees must be treated on similar terms.

2.3 There are no restrictions on the nature of the shares over which options may be granted under a stock option plan, nor on the type of company that may grant options (e.g. based on size, nature of business etc.).

2.4 Options over shares may be either marketable or non-marketable; the grant of marketable options is not common.

2.5 There are no restrictions on the value of shares over which options may be granted to employees.

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<sup>1</sup> Section 3 Paragraph 1 subparagraph 15 Income Tax Act

<sup>2</sup> All regulations are included in the Austrian Tax Act § 3 Abs 1 Z 15 lit b and lit c.

### **3. Taxation**

#### **3.1 Time of taxation**

##### *3.1.1 Marketable*

3.1.1.1 Marketable options are taxed at grant. Taxation may occur at vesting if a non-marketable option becomes marketable at that time.

##### *3.1.2 Non-marketable*

3.1.2.1 Non-marketable options are taxed at exercise.

#### **3.2 Taxable gain**

##### *3.2.1 Marketable*

3.2.1.1 If the option is quoted, the taxable value will be the option's quoted price. Otherwise, the Austrian tax authorities determine the taxable value as its estimated fair market value ("FMV"), which is based on the total of:

- The intrinsic value of the option (that is, the difference between the market value of the share at grant and the exercise price); and
- The time value of the option based on deemed interest on the FMV of the shares, at a rate of 1.4% per calendar month for the first twelve months and 1% for the remaining months during which the option can be exercised.

3.2.1.2 In the case of a non-marketable option that becomes marketable upon vesting, income tax will arise at vesting. If that option is then exercised within one year of vesting, the tax authorities may agree not to levy income tax on that gain because income tax was paid at vesting (see also section 3.4 for treatment of capital gains).

##### *3.2.2 Non-marketable*

3.2.2.1 On the exercise of a non-marketable option, the taxable gain is calculated as the difference between the exercise price and the FMV of the shares at exercise.

#### **3.3 Type of tax**

##### *3.3.1 Marketable and non-marketable*

3.3.1.1 Any taxable benefit arising in respect of marketable or non-marketable options is subject to income tax. The benefit is taxed as either ordinary income or as a special payment.

3.3.1.2 If options are exercised on a regular basis (for example monthly), the taxable benefit arising may be treated by the Austrian revenue authorities as ordinary income, and subject to ordinary progressive tax rates (up to 50%).

- 3.3.1.3 If options are exercised infrequently, say once every three months, or on a one-off basis, the special payments rules will apply to the taxable benefit. A special payment is subject to tax at a rate of 6% on an amount equivalent to up to two months salary. Amounts in excess of this limit are taxed at the ordinary progressive tax rates (up to 50%). Other types of benefits are also special payments and the special payments ceiling of two months' salary is often reached through the payment of Christmas and vacation pay.
- 3.3.1.4 There will be a liability to social security contributions for the employee at the time of taxation) if a withholding obligation exists for the employer (see section 5.2).
- 3.3.1.5 Employee social security contributions are payable at 17.65% on payments up to a monthly ceiling of €3,270. Employee's social security contributions are withheld by the employer.

### 3.3.2 *Favourable tax treatment for non-marketable options*

- 3.3.2.1 In certain circumstances, different rules apply to the tax arising on the exercise of non-marketable options. These rules apply if certain conditions are met, and there are different rules depending on whether options were granted before 1 January 2001 or on or after this date, and whether the relevant plan is administered through an Austrian payroll. The different scenarios are set out below.

#### **Options granted on or after 1 January 2001 under a stock option plan:**

##### ***A. The stock option plan is administered through an Austrian payroll:***

- 3.3.2.2 Options granted on or after 1 January 2001 enjoy a special favourable tax treatment. The tax favour is only granted for the gain from options which, at the day of grant, did not represent shares worth more than €36,400. Gains from options exceeding this threshold are fully taxed. The size of the tax favour depends on the length of the holding period. For each year that the options were held 10% of the gain is exempted from taxation. The maximum exemption is 50% of the gain.
- 3.3.2.3 Tax on the balance of the preferential tax treatment amount is due at the earlier of:
- The sale of the shares.
  - The cessation of employment.
  - 31 December of the 7<sup>th</sup> year following grant.
- 3.3.2.4 Tax on any excess gain over the preferential tax treatment amount (e.g. where the value of the underlying share at grant exceeds €36,400 and/or the strike price is below the market price of the underlier) is subject to tax on exercise at ordinary progressive tax rates.
- 3.3.2.5 In order to get this preferential tax treatment, the plan must:
- Be offered to all or a group of employees rather than a small number of key employees;

- Not be based on marketable options, since a marketable option must be taxed at the grant date;
- Include a requirement that the shares have to be deposited with a bank within the European Economic Area or with a trustee (determined by the employer Works Council before 1 January 2001); and
- Include a certain vesting period.

3.3.2.6 In addition, the employer must provide proof that the shares are deposited at the agreed institution.

3.3.2.7 Of the gain in excess of €36,400 referred to above, up to €1,460 of this amount is tax free, if the following conditions are met:

- The plan is made available to all or a group of employees rather than a small number of key employees;
- Shares are held for at least five years after exercise; and
- The employee provides evidence that the holding period is met; this information must be provided to the employer by 31 March of the following year for each year in question.

3.3.2.8 If the above mentioned conditions are fulfilled, the tax-free amount can be used regardless of an existing employment relationship between the granting company and the employee. It should be noted that if the preferential tax treatment is available, it will not be possible for the payment to be a special payment.

3.3.2.9 Contributions to the Family Burdens Equalisation levy, the municipal payroll and the contribution for the Chamber of Commerce may also fall within the preferential tax treatment if the conditions are fulfilled.

***B. The stock option plan is administered through a foreign group company:***

- 3.3.2.10 If stock options are granted under a stock option plan on or after 1 January 2001 but the plan is not handled via an Austrian payroll and there is no withholding obligation (see section 5.2) the employee would not be entitled to the preferential treatment nor to the €1,460 exemption. However, if payroll accounting is made voluntarily by an Austrian tax adviser preferential treatment may be available.
- 3.3.2.11 As this tax favorable treatment has only been available for grants since 1 January 2001, there are no statistics available to show how widely this type of plan is being used.

**Stock Options granted up to December 31, 2000:**

***A. The stock option plan is handled via an Austrian payroll:***

- 3.3.2.12 If such non-marketable options are exercised, the difference between the FMV of the shares at exercise and the exercise price is taxed.
- 3.3.2.13 If the shares are held by the employee for five years and are deposited with a bank, within the European Economic Area, an Austrian branch of a foreign bank or with a trustee (determined by the employer and the Works Council by the beginning of 2001) during the period the shares are held, up to €730 (€1,460 from 2001) is tax free, provided the following conditions are met:
- The plan is available to all or to a broad group of employees rather than a small number of key employees;
  - The shares are held for at least five years; and
  - The employee provides evidence that the holding period is met; the employee must provide this information to his/her employer by 31 March of the following year for each year in question.
- 3.3.2.14 If the above conditions are fulfilled, the tax free amount can be used regardless of an existing employment relationship between the granting company and the employee.
- 3.3.2.15 If the shares are sold during the necessary holding period, the employee is required to inform her/his employer, who then must tax the former tax free amount (€730 before 2001, €1,460 from 2001).

**3.4 Capital gains taxation**

- 3.4.1 The capital gains taxation treatment depends on whether or not the shares are sold within a period of one year from the date of exercise.
- 3.4.2 If the shares are sold within one year of exercise, the difference between the sale price and the FMV of the shares at exercise is a taxable gain. The gain is subject to ordinary Austrian progressive income tax rates. If the annual gain does not exceed

€440, the gain is tax free. If the gain exceeds €440 the full amount (including the first €440 of the gain) is taxable.

3.4.3 The sale of shares held for more than one year is exempt from tax, unless the individual has directly or indirectly held one percent or more of the issued share capital of the company during the last five years. In this case, the sale gives rise to a taxable gain. This gain is taxable at half of the individual's average ordinary income tax rate.

3.4.4 Losses can be offset against other capital gains in the same year but cannot be carried forward to be set against gains in future years.

3.4.5 Austria does not levy wealth tax.

### **3.5 Tax consequences for the granting company**

#### *3.5.1 Social security contributions*

3.5.1.1 Employers' social security contributions will be due if a withholding obligation exists (see section 5.2). In this case the annual income ceiling subject to social security contributions is €6,540.

3.5.1.2 Ordinary income is subject to employer's social security contributions of 21.65%. The monthly ceiling is €3,270.

3.5.1.3 Special payments are subject to social security contributions at the rate of 21.15%.

3.5.1.4 In addition to social security contributions, the local employer is liable to the Family Burdens Equalisation Levy at the rate of 4.5%, and to municipal tax on payroll at the rate of 3% on monthly gross salaries. In addition, a contribution to the Chamber of Commerce is levied at a rate of approximately 0.44% on gross salaries paid. The percentage differs from "Bundesland" to "Bundesland". The relevant percentage for Vienna is 0.44%. In the case of a foreign employer, only the contribution to the Family Burdens Equalisation Levy of 4.5% will be due on stock option income. This will be the case even if there is no recharge to the local entity.

3.5.1.5 There is no employer social security liability in relation to the sale of the shares.

#### *3.5.2 Corporate tax deduction*

3.5.2.1 There are no legal provisions or regulations in Austria explicitly providing for a corporate tax deduction for an employer for the costs of a stock option plan in which employees of that company participate. The deductibility of such costs is subject to the general principle that all expenses directly connected with taxable income may be deducted.

3.5.2.2 In Austria, income subject to corporation tax is based on the accounting profit as calculated under Austrian generally accepted accounting principles ("GAAP") (regulated in the Austrian Commercial Code). There are no specific rules in the

Austrian Commercial Code on whether or not stock options result in an expense in the company's books.

- 3.5.2.3 An Austrian parent company is generally entitled to claim a tax deduction for the costs of a stock option plan for which option exercises are sourced from treasury stock. There is no specific guidance as to whether a tax deduction can be claimed for the issue of new shares to meet option exercises. However, a tax deduction should be defensible to the extent a charge can be recognised in the income statement of the employing company under Austrian GAAP.
- 3.5.2.4 The costs deductible against corporation tax generally include all costs associated with the stock option plan such as the initial costs of designing and establishing the plan, the administration costs, and the cost of treasury stock. A tax deduction is not allowed for costs relating to the employees of another group company.
- 3.5.2.5 The costs for the option plan have to be allocated over the service period, which is the period an employee must continue in employment after option grant until he or she is able to exercise the option. If the period is not defined explicitly in the plan, the Austrian Revenue would normally expect the expense to be allocated over the period from grant to the date when an option can be exercised for the first time.
- 3.5.2.6 The corporate tax deduction is claimed in the annual tax return of the employing company for the relevant year. There are no special procedures for making a claim.
- 3.5.2.7 An Austrian employing subsidiary of a foreign group is entitled to claim a deduction for the costs arising out of the participation of its employees in a stock option plan, where the costs are recharged from the foreign parent company. The recharge must be on an arms length basis and OECD transfer pricing guidelines will apply.
- 3.5.2.8 In order to secure a corporate tax deduction for the recharge of costs from a foreign parent company, a written recharge agreement is required between the Austrian subsidiary and the foreign parent company before the options are granted to the employees of the Austrian subsidiary. The costs payable under the recharge agreement have to be spread over the service period.
- 3.5.3 *Other*
- 3.5.3.1 There are no Stamp Duty or VAT implications for stock option plans in Austria.

## **4. Issues for employees**

### **4.1 Reporting obligations**

4.1.1 If the employer has no withholding obligation (see section 5.2), the employees must file an income tax return by 31 March following the end of the year in which a taxable event arose. If a tax adviser represents the employee this deadline can be extended by up to one year. Income tax payable is due one month after an assessment is made. A reporting obligation will always apply in relation to the sale of the shares, as employing companies never have withholding obligations in relation to the sale of shares.

4.1.2 The information that needs to be reported includes the name of the company, the relevant number of shares and the total value of the shares.

4.1.3 In addition, there will be a reporting obligation when the total value of shares and marketable options held by an individual exceeds €75,000. If the plan is not administered through an Austrian bank, the employee will have to report any purchases of securities in excess of €75,000 to the Austrian National Bank for statistical purposes.

### **4.2 Cashflow issues**

4.2.1 An employer may choose to grant an interest free loan to an employee to alleviate cash flow problems as a result of incurring a tax liability on the grant of a marketable option. The making of an interest free loan is tax free up to an amount of €7,300. If the loan exceeds this limit, deemed interest will be taxable as a benefit in kind at the employee's marginal rate of tax. However, it is likely that such a loan will breach the prohibition on financial assistance (see section 6.6) so it is unlikely to be possible to use a loan in most cases.

4.2.2 If an employee has paid for an option and/or tax on the grant of a marketable option and the employee does not subsequently exercise the option, it is not possible to recover any tax or amounts paid at grant.

### **4.3 Change in employee's residence status**

4.3.1 The tax implications set out in section 3 will differ if there is an income tax charge on vesting (e.g. where a non-marketable option becomes marketable) and one of the following applies:

- The employee was tax resident at vesting, but was not at option grant.
- The employee was not tax resident at vesting of the option, but was at option grant.
- The employee was not tax resident at grant or vesting, but was tax resident in between.

4.3.2 In such cases, the Austrian tax authority will charge tax on such proportion of the taxable benefit as corresponds to the period of Austrian tax residency of the individual.

4.3.3 On the exercise of a non-marketable option, if the employee was tax resident at any time between the grant and the exercise of the option, the legal situation is that the Austrian tax authorities will charge tax on the proportion of the benefit relating to the period between grant and exercise during which the employees was Austrian tax resident.

## **5. Issues for employers**

### **5.1 Reporting obligations**

5.1.1 Reporting obligations will arise if there are withholding requirements (see section 5.2 below).

### **5.2 Withholding obligations**

5.2.1 If there is a withholding requirement on the part of the employer, the employer will be required to withhold the income tax liabilities arising and pay employer social security contributions.

5.2.2 There is a withholding obligation on the employer:

- If there is a recharge to the Austrian employing company from a foreign parent; or
- If the Austrian employing company is directly involved in the administration of the plan through net salary deduction and is informed of the date and amount of the benefit received by employees under the plan; or
- If the options are granted by the Austrian employing company.

5.2.3 If there is a withholding requirement, the employer is required to withhold income tax at an employee's marginal rate (up to 50%) and pay employer social security contributions on the taxable benefit up to a ceiling of €3,270 per month. Employee social security payments are withheld on a monthly basis and must be remitted to the tax authorities by the 15<sup>th</sup> of the following month. The company is obliged to withhold the income tax in the month in which the employee receives the taxable benefit.

5.2.4 On exercise of the options, the employer can withhold any tax liability arising in respect of the share option from cash salary, but this procedure should be included in the rules of the stock option plan, or agreed in writing with the employee. To the extent that there is a shortfall on the withholding requirement, the rules of the stock option plan should allow the employer to sell sufficient shares to recover the outstanding amount.

5.2.5 There will be no reporting or withholding obligations for the employer in relation to the sale of shares by employees.

## **6. Legal issues**

### **6.1 Process/timeframe**

6.1.1 The implementation of a stock option plan in Austria may take from six months to one year.

6.1.2 The following steps need to be considered<sup>3</sup>:

- Drafting of the stock option plan.
- The creation of the necessary shares by resolution of a general meeting of shareholders (see section 8).
- A written report by board of directors or supervisory board to the general meeting of shareholders may be required, depending on the type of shares to be used in the plan.
- If shares are listed on the stock exchange, a report has to be published (see section 6.4 )<sup>4</sup>.
- Notification to the Works Council, if one exists.

### **6.2 Employment law**

6.2.1 Under Section 91 Arbeitsverfassungsgesetz, if a Works Council exists it must be informed<sup>5</sup> of all matters regarding the economic, social, health-related or cultural interests of employees. It is not clear if this provision relates to stock option plans but it is considered best practice to provide details of stock option plans to Works Councils. There are no legal consequences if the Works Council is not informed.

6.2.2 The principle of non-discrimination applies to stock option plans (equal treatment under equal conditions, unequal treatment under unequal conditions).

6.2.3 If an employee has been awarded share options and is subsequently unfairly or unlawfully dismissed, he/she is able to make a claim for damages for the value of the options. Such a claim can also be made if the employment contract is terminated in order to deprive him/her of the right to buy shares.

6.2.4 To avoid the possibility of a claim by an employee based on an established right, there should be a written confirmation signed by employees for each option grant stating that it has been granted on a discretionary basis only and without any entitlement to obtain the same opportunity in the future.

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<sup>3</sup> Sections 78 and 82 Stock Exchange Act, Publication Ordinance BGB1. II/2000/5

<sup>4</sup> Section 75 Stock Exchange Act

<sup>5</sup> See also Section 108 Labour Relations Act

### **6.3 Data protection**

- 6.3.1 Notification or approval under the Austrian Data Protection Act may be required. This depends on a number of factors including the type of data, any intended transfer of such data, and the destination of the data transfer<sup>6</sup>.
- 6.3.2 Explicit written consent from employees is usually required in relation to data transfers. It is recommended that acknowledgement of consent is notified to the employees in bold print and is worded in such way as to cover specifically the type of data transferred, the purpose of the transfer, the recipients of the data and instructions regarding an employee's right to withdraw the consent.
- 6.3.3 If there is a contravention of the data protection laws, an administrative penalty of up to €19,000<sup>7</sup> may be imposed against the representatives of the company. Imprisonment is possible, but not to be expected in this situation. The Austrian authorities are taking increased action against breaches of the Austrian Data Protection Act by enforcing administrative fines. In addition companies may launch unfair competition legal actions if they feel they are at a disadvantage in the market place because they have complied with the data protection laws and their competitors have not<sup>8</sup>.
- 6.3.4 Prior consent from the Works Council may be required for certain types of automatic data processing. If this consent is not given, the Austrian authorities will not allow the data processing to take place.

### **6.4 Stock exchange issues**

- 6.4.1 A company wishing to implement a stock option plan in Austria requires shareholder approval. A written report must be given to the shareholders including the main features of the plan, the number and allocation of options between employees, executive employees and members of the executive bodies, the option period, transferability, and other details<sup>9</sup>.
- 6.4.2 If the company is listed on the Austrian stock exchange, the report mentioned above has to be published either in a newspaper which is available nationally, in a booklet which is made available in the Official Gazette, or via an electronic information system.
- 6.4.3 There are no restrictions on Austrian employees holding shares in foreign companies (or options over such shares). However, please note the foreign exchange control filings requirements detailed below (see section 6.7.1).

### **6.5 Securities law**

- 6.5.1 There are no securities law restrictions on the number of individuals who can participate in the stock option plans.

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<sup>6</sup> Section 17 Data Protection Act

<sup>7</sup> Section 52 Data Protection Act

<sup>8</sup> Unfair Competition Act

<sup>9</sup> Section 149 ff Stock Corporation Act

6.5.2 There are no requirements to file or register stock option plans.

## **6.6 Financial assistance**

6.6.1 An Austrian employing company is not allowed to provide direct financial assistance to employees for the purpose of purchasing its own shares.

## **6.7 Other**

6.7.1 Stock deposits and bank accounts outside Austria have to be notified to the Austrian National Bank as soon as they are opened. Typically, companies will involve an Austrian bank to conduct all share transactions in relation to a stock option plan because of the requirement to report statistics to the Austrian National Bank. The National Bank requires companies to notify it of the stock deposits and bank accounts it holds outside Austria. Failure to notify will result in fines up to a maximum of €15<sup>10</sup>.

6.7.2 The employee may have voting rights and be entitled to dividends prior to the exercise of the stock options, but this depends on the provisions within the plan.

6.7.3 The formalities required to enable an employee to transfer his shares acquired under a plan, and the costs associated with such transfer may depend on the provisions within the rules of a plan.

## **7. Sourcing shares for stock option plans**

7.1 When employees exercise stock options, the shares used to satisfy that option exercise can be sourced either from shares purchased on the market, or by the issue of new shares. Shares purchased on the market can be transferred immediately to employees or alternatively held by the company in treasury. As an alternative to being held in treasury, shares can be held in a trust, but this is rare in Austria.

7.2 The company can choose when to purchase or issue the shares, subject to the requirements set out in sections 7.5 and 7.6 regarding shareholder approval and the provision of certain information to shareholders.

7.3 It is possible for an Austrian company to hold its own shares for the purposes of operating stock option plans and for certain other purposes in special circumstances. A company may hold a maximum of 10% of its own share capital. A company may purchase its own shares for the purposes of a stock option plan provided the company is able to form a reserve for the own shares and that the company's net assets do not fall below either its nominal share capital or the appropriate reserve required by law or the articles of incorporation.

7.4 Generally, the same requirements apply for a subsidiary holding shares in its parent.

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<sup>10</sup> Section 23 Austrian Act on Foreign Currencies

7.5 If an Austrian company is acquiring its own shares in the market in order to meet share option exercises, a resolution of shareholders is required, which will be valid for eighteen months.

7.6 If new shares are to be issued to meet option exercises, there are a number of different ways to increase the company's share capital to effect this, the most flexible being the so-called conditional share capital increase. The directors of an Austrian company are authorised by way of shareholder resolution conditionally to increase the share capital of the company (up to a certain extent and within a time period of five years) and the directors may choose the point in time the share increase is actually to be effected, however, approval of the supervisory board is required. For example, under this instrument, at the time of grant the directors might be authorised to issue new shares, but the actual increase would be effected at time of exercise. The directors of a company are required to prepare a written report, which has to cover the following, before a shareholder resolution on a conditional share capital increase is passed:

- The purpose of the stock option plan.
- The number of stock options and eligible employees (particularly whether key employees will be entitled to them).
- The range of the value of the stock options.
- The exercise price as well as its calculation method.
- The term of the stock option plan.
- The exercise period.
- Any restrictions on the transferability of the stock options and the underlying shares.

## **8. Role and influence of existing shareholders**

8.1 Shareholder approval is required for the adoption of a stock option plan. In addition, shareholder approval may be required for the purchase or issue of shares (see section 7 above).

## **9. Accounting<sup>11</sup>**

9.1 No compensation expense is recognised for stock options granted to employees and directors over shares to be newly issued.

9.2 If stock option plans are sourced through own shares (treasury shares) the difference between the book value and exercise price under the stock option plan is recorded in the income statement as part of staff costs at the date of exercise.

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<sup>11</sup> Regulated in the Austrian Commercial Code

- 9.3 Treasury shares have to be capitalised on the balance sheet of the company. Classification can be long-term or short-term. The initial sum recognised is the amount of the acquisition cost, subsequent measurement is the lower of cost or market value. A “Reserve for Treasury Shares” has to be shown in the equity section of the balance sheet. This reserve can (i) be taken from existing reserves or capital surplus, or (ii) has to be allocated from company’s profit after tax.
- 9.4 Under par 239 (1) of the Austrian Commercial Code stock options granted to employees and directors have to be disclosed in the notes of the financial statements (number of options granted, main features of the plan and fair value, if it is a listed company). This information is not shown in the main body of the accounts.
- 9.5 Currently, no accounting regulations for stock option plans are in force. As a consequence of this, only disclosure notes are published. There is no intention to change the accounting rules.

## **10. Miscellaneous**

- 10.1 While the use of trusts is recognised in Austria<sup>12</sup>, their use in connection with stock option plans is uncommon as it can be detrimental from a tax point of view<sup>13</sup>.
- 10.2 If a trust is set up, a trust agreement (which authorises the trustee to administer the beneficiaries’ property) must be drawn up. In relation to third parties, the trustee has the legal position of an owner or proprietor<sup>14</sup>.
- 10.3 The tax revenues from employee stock option plans are not used for a specific purpose.

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<sup>12</sup> General Civil Law

<sup>13</sup> Act on Income Tax

<sup>14</sup> Act on Trusts and other pertaining acts

## **11. Special points of note**

### **11.1 Mitigation of income tax**

11.1.1 There are no special rules for mitigating income tax if the income from stock options accrues over several years, but see the application of the preferential tax treatment amount, set out in section 3.3.2 above, and the special payment rule mentioned in section 3.3.1.3.

### **11.2 Mitigation of social security contributions**

11.2.1 There are no special rules for mitigating social security contributions if the income from stock options accrues over several years, but see the application of the preferential tax treatment amount, set out in section 3.3.2 above, and the special payment rule mentioned in section 3.3.1.3.

### **11.3 Mitigation of tax on sale of shares**

11.3.1 Sales of shares held for more than one year are generally exempt from tax (see section 3.4).

### **11.4 Special provisions for SMEs**

11.4.1 There are no special provisions in Austrian law and practice concerning stock option plans operated by SMEs.

**Note: Individual country reports have been prepared covering employee stock options in the EU and the USA. These individual reports are of a general nature and subject to change based on individual circumstances. PricewaterhouseCoopers has also provided the EU with an overview report. This overview report sets out the basis on which the individual reports were prepared and should be referred to as necessary. In particular, it should be noted that the information in the reports is current as at 1 January 2002, unless otherwise stated. In the case of certain known subsequent changes, reference may be made on occasion but a full update exercise has not been carried out. Further information can be obtained from PricewaterhouseCoopers.**