Mobility Matters

Employee incentive trends in the Netherlands – the landscape is shifting

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Rewarding employees is more than just compensation for performance. It is an incentive aimed at increasing motivation, commitment, and engagement. Remuneration should therefore be seen as a strategic tool to attract and retain talented employees, and to position organisations as top employers in a rapidly changing labour market. Equity-based remuneration is particularly well-suited to these objectives.

Whereas in the Netherlands in recent years—partly due to the introduction of the lucrative interest legislation about 10 years ago—we have seen many complex equity-based remuneration structures, the tide may start to turn as of 2024 due to the increase of tax rates in the Dutch substantial interest regime.

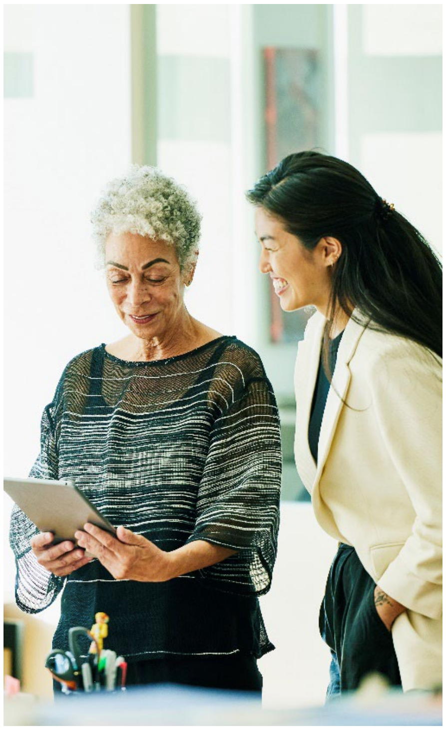
Anticipating developments in the labour market is important for businesses and organisations in order to remain competitive, especially as employee expectations are structurally changing and the competition for talent is intensifying. With the statutory landscape shifting in the Netherlands, it is essential to avail of the opportunities to take the organisation's compensation structure, talent strategy, and competitive edge to the next level.

Historical context

In the dynamic business environments of the US and the UK, the concept of equity-based compensation has long been familiar and well-established. However, this has not been the case in the Netherlands. It was not until the post-World War II era that nonfinancial employee participation had its genesis in the Dutch workplace, and even then, very tentatively. Up until the 1980s, equity-based incentives were an exclusive "privilege" reserved for the top management of publicly traded companies. In the subsequent decades, financial employee participation started to find its place in a broader spectrum of companies and employee populations. The growing trend was fuelled by ongoing globalisation and the intensifying competition in the labour market. Alongside this evolution, the legal landscape evolved, too, creating new possibilities for diverse forms of equity-based compensation. This paved the way for new initiatives.

Equity incentives: Trends in 2024

We are seeing more opportunities for equity-based incentives and their inclusion in compensation structures across various business sectors. And now, choosing an equity incentive plan to incentivise employees may become easier in 2024 due to changes in domestic tax legislation. Complicated employee equity structures will become less tax-advantageous due to an increase of tax rates in the Dutch substantial interest regime (from 26.9 percent up to 33 percent), meaning, as an example, that it has become more interesting to provide easily accessible stock appreciation right (SAR) plans to employees.



Taking a look at SAR plans

Under a SAR plan, an employee is given the (future) right to receive a cash payment equal to the appreciation of a predetermined number of shares over a certain period. Considering a corporate tax benefit that could be available at the level of the issuing company, SAR plans can be provided to employees with an effective tax rate of 32 percent.

For the issuing company, a SAR plan also has advantages. The main benefits of incentivising employees through a SAR plan is that it is easily set up, does not require statutory adjustments, and is relatively tax-friendly. In the plan documentation, key drivers of the company can be included, meaning that a SAR plan is very attractive in terms of aligning, for example, the environmental, social, and governance (ESG) strategy of the company with the interest of the employees.

Other options and deciding which to use

Equity incentive plans also come in various other forms. The type of plan that is best for a company depends on several factors: company culture, nature of the business/industry, business objectives, risks employees are willing to take, etc. To help decide on the most suitable equity incentive plan, it is important to follow a few steps.

Step 1: Determining strategic alignment

The initial phase of an incentive plan development involves a thorough assessment of the company's objectives and aligning them with the intended outcomes of the equity-based plan. For instance, is it more important to align the interest of the employee for a long-term period, or does it focus more on retaining the employees until a future IPO or exit? This crucial step can help ensure that the plan effectively supports the company's strategic goals.

Key considerations:

- Goals of the equity plan: Clearly define the desired outcomes of the equity plan, such as attracting and retaining top talent, fostering a performance-driven culture, securing financing opportunities, and enhancing employee morale and collective spirit.
- Competitive benchmarking: Evaluate the equity plan against industry standards and competitor offerings to help ensure its attractiveness and effectiveness in the market.

- Stakeholder engagement: Discuss the plan with key stakeholders to gather their input and establish alignment on the plan's objectives and design.
- International alignment: Given the international nature of an equity incentive plan, determine whether it is desired for the plan to be rolled out in multiple countries.

By carefully considering these factors, companies can develop an equity plan that aligns with their strategic objectives and contributes to long-term success.

Step 2: Type of equity incentive

After the key considerations have been reviewed and discussed with the appropriate stakeholders to determine to what extent they match the company's objectives, it’s time to consider the various types of equity incentives. As noted earlier, the type of plan is strongly influenced by the goals and culture of the company. Below we have included the (most common) types of plans that could be considered.

- **Employee stock ownership plan (ESOP):** Employees have a right—that is, an immediate right—to receive shares if the conditions set for it are met; lock-up clauses or other selling limitations are relatively common for ESOPs.

Benefits: Perfect for long-term commitment, clear alignment between shareholders and employees.

- **Certificates of shares:** Employees receive stock certificates that represent a portion of a share in the company. The voting rights of the share are vested in a foundation for the administration of shares. This means that the employees do not have the right to vote on matters that are put to a vote by the shareholders, nor any shareholder meeting rights.

Benefits: Participants do not have meeting or voting rights, but only participate in the economic benefits associated with such shares.

- **Stock option plan:** The right of employees to acquire a share of the company at a predetermined exercise price.

Benefits: Good for long-term engagement, clear alignment between shareholders and employees.

- **Restricted stock units (RSU):** A conditional right to a delivery of shares or certificates without direct acquisition of legal ownership.

Benefits: Clear alignment between shareholders and employees, flexible conditions can be included in RSU plans.

- **Stock appreciation right (SAR):** A (future) right to receive a cash payment equal to the appreciation of a predetermined number of shares over a certain period of time.

Benefits: Easily set up, tax-friendly.

- **Phantom stock:** Similar to SARs, this is a right to a payment of money if the conditions set for it are met. Generally, dividends or dividend equivalents are paid during the holding period of the phantom stock.

Benefits: Easily set up, tax-friendly, economically matches ESOP.

- **Sweet equity/hurdle share:** Equity instrument that may offer a significantly high return that is (generally) subordinated against other equity incentives.

Benefits: Strong instrument for incentivising management, great tool for focus on initial public offering (IPO).

Step 3: Setting up the equity incentive plan

Based on the company's strategic choices and the chosen equity variant, professionally qualified and experienced legal and tax experts can advise on developing a concept equity incentive plan and prepare the required documents. The concept version of the plan should then be discussed with the relevant stakeholders. Does the plan, for example, meet the strategic choices and goals of the company? Do the stakeholders foresee any issues or challenges? What should the rollout and communications strategy entail? Should the equity incentive plan be rolled out in other countries as well? After looking at these various angles and addressing the questions, the plan and the accompanying documents can be finalised.

Summary

Staying ahead of the dynamics in the labour market is crucial for organisations aiming to maintain competitiveness amid evolving employee expectations and increased talent competition. Employee rewards extend beyond mere compensation; they function as strategic tools for attracting talent, retaining it, and positioning organisations as top employers.

The landscape of equity-based compensation in the Netherlands appears to be shifting in 2024, with potential tax implications reshaping the appeal of various incentive structures. Particularly, SAR plans may gain popularity due to their simplicity, tax-friendly nature, and alignment potential with business goals. However, in 2024, it remains essential to thoughtfully assess which type of incentive plan best aligns with the organisation. While SAR plans offer numerous benefits, a more complex plan such as a sweet equity plan might better suit a company's business strategy and reward policy.

Therefore, even in 2024, it is important to carefully consider the type and design of the incentive plan. For organisations that are on the verge of their choice of an incentive plan, the next step should be to coordinate with a qualified tax and legal adviser. This collaboration will help in considering the viable alternatives and determine the most suitable plan for the organisation, in light of any tax and legal issues involved. This thorough approach can ensure that the equity plan is one that helps position the company for long-term success in today's dynamic labour market.

How KPMG Meijburg & Co. can help

Are you interested in discussing your thoughts and plans on employee incentives further? If so, please contact the authors or one of our tax advisers from our People Services team.

We will be happy to assist you.

To learn more about the KPMG Global Mobility Services practice, please visit **read.kpmg.us/GlobalMobilityServices.**

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