A share in the company instead of a salary. Employee shares will be more advantageous Kateřina Hovorková | Penize | 31/10/2023
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Employee shares are mainly offered by start-ups and small companies to compensate key workers for lower wages. However, they are disadvantageous from a tax point of view. Deputies are now approving a change that could make them the desired benefit.

'We can't give you a high salary, but we offer shares.' Employees of start-ups and small companies can hear such an offer.

Employee shares are offered by companies that want to recruit or retain highly qualified employees, but cannot pay them enough money at the time of start-up. Instead, they try to pay with a share of the future value of the company.
In the Czech Republic, there is one thing in particular that prevents a greater expansion of employee shares (ESOP - employee stock option plan). 'The key problem is disadvantageous taxation, which hinders their wider use,' says tax expert Michal Jelínek from V4 Group.
A person who receives his employer's shares in the Czech Republic must immediately pay income tax on them - despite the fact that he receives no income from them. And that is a rather unpleasant obstacle for companies, and especially for their employees.
'Section six paragraph three of the Income Tax Act says that if an employee receives any non-monetary benefit from an employer, he must tax it. For example, the employer gives you a shopping voucher worth fifteen thousand crowns, and you pay the employer five thousand for it. The difference, which amounts to ten thousand crowns, must be taxed, because you immediately get some useful value,' Jelínek explains the paragraph, which is also used for the taxation of employee shares.
When the international company IndexVentures compiled a list of countries that favor giving out shares to employees, the Baltic countries, Israel and Canada came out as the most receptive.
The Czech Republic, together with Austria, Denmark or Germany, finished at the bottom of the table. 'Most of these countries lack specific support programs and there are various administrative obstacles,' says Michal Jelínek.
Deferred taxation
However, employee shares should soon become more attractive in the Czech Republic. A draft law is being approved in the Chamber of Deputies, which will change their taxation. Newly, income from employee shares would not be taxed immediately, but only when the employee sells them and has the means to pay the tax.
'The purpose of the proposal, which has already passed the second reading in the Chamber of Deputies, is primarily to increase the attractiveness of issuing ESOPs in the form of shares, shares in s.r.o. or options. This will increase employee motivation and start-ups will have better opportunities to attract new talent right at the start of the business, when it is more appropriate to invest financial resources and instead reward employees with ESOPs,' says Štefan Fous from the press department of the Ministry of Finance.
The amendment was submitted as an amendment to the bill amending the laws in connection with the development of the financial market.

Since the shares are acquired by the employee for his work, the amount of income is fixed at the moment of their acquisition, which, after deferral, will be subject to income tax as well as standard health and social insurance contributions. The deferred tax would then be paid by the employer for the employee - just as in the case of standard taxation of remuneration for work.

'Income above this fixed amount will no longer be subject to health or social insurance, but only to the standard tax on other income according to section 10 of the Income Tax Act. The proposal envisages that it will still be possible to use the time test during the subsequent sale of shares or shares, i.e. exemption from income tax for three-year holding of shares, or five-year holding for shares in limited liability companies,' explains Fous. If the employee held the shares or share for longer, he would not pay income tax at all after selling them.

The proposal also remembers situations where the employee receives a share or option at a discounted price, but the company does not do well and the employee will lose by selling the security. “In the event of a loss, the entire difference between the discounted price paid by the employee and the market price will not be taxed, but the loss of share value will be deducted from it. In practice, this means that if the project fails and the investment is unprofitable, there will be no taxation at all,' adds Fous.

Jana Brodana, director of the Association for the Capital Market of the Czech Republic, likes the proposal. 'Employee shares motivate employees, especially in start-ups, and their benefits can make the creation of new and innovative companies in the Czech Republic more attractive,' he says.

Czech start-ups are still cautious in evaluating proposed innovations. 'We noted the announcement of the planned change and we welcome the work on the issue, because in the current state there is a lack of a clear definition within the framework of the Czech legislation. From what we know, we understand that the goal is to equalize the cash flows for the employees, that is, the tax should be deducted at the same time as the value from the ESOP is received, which is the desired change. However, we are not completely clear about the specific conditions yet,' responds Pavla Munzarová, head of the Mews start-up, which provides accommodation facilities with a system for managing guest reservations.

Přemysl Rubeš from the capital company Presto Ventures, which invests in growing technology companies, is more critical. According to him, the current proposal to adjust the taxation of employee shares is a half-baked solution.

'Although the proposed change finally provides for the postponement of taxation and share levies until after the sale of the company, it only applies to employees. So it is basically the same as if you paid the employees a financial reward when the company was sold. But that is not and should not be the essence of ESOP for start-ups. In this case, the ESOP is intended to serve as a motivational reward for increased risk and loyalty, it aims to make co-workers co-owners at the same time. And it doesn't have to be only employees who can deserve this kind of award,' says Rubeš.

He adds that the current regulation adds a number of often illogical exceptions that further complicate the situation and does not bring the promised support for the development of start-ups.