



ENERGY AND NATURAL RESOURCES

# Tax Risks and Opportunities of a Mobile Workforce – Planning for No Surprises

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4:00 p.m. – 5:15 p.m.

## Tax Risks and Opportunities of a Mobile Workforce – Planning for No Surprises

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# Agenda

- ◆ **Introduction**
- ◆ **Risks of A Mobile Workforce**
- ◆ **Dispelling Some Myths**
- ◆ **Opportunities of a Mobile Workforce**
- ◆ **Trailing Liabilities**
- ◆ **Questions**

# Risks of a Mobile Workforce

- ◆ EBTs and STAs
- ◆ Corporate Tax Considerations
- ◆ Tax Withholding Requirements
- ◆ Employee Benefits and Immigration
- ◆ Corporate Reputation
- ◆ IRC Section 911

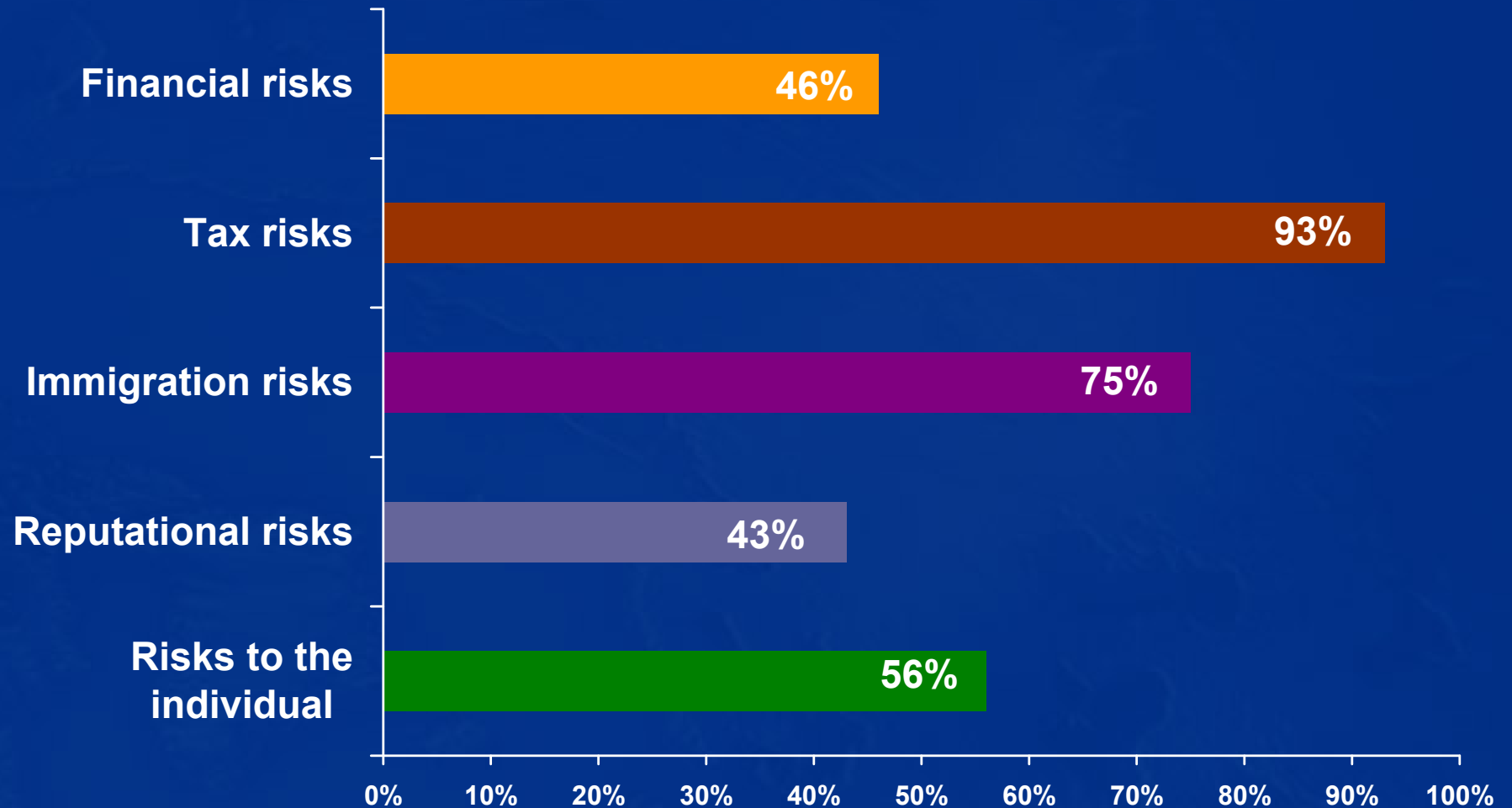
# Short-Term Assignment (STA)

- ◆ A temporary transfer
- ◆ From an employee's primary work location to one in a different country
- ◆ Policies around STAs vary in length, generally
  - More than three months
  - Less than a year

# Extended Business Travelers (EBT)

- ◆ Not assigned outside of home location
- ◆ Frequent business travel to work location(s)
- ◆ Commonly returning to home location on weekends
- ◆ Often outside the purview of HR
- ◆ Company business expense policies apply
- ◆ Costs typically borne in home location

# Categorizing Risks



**Source: 2007 KPMG Extended Business Traveler-Short Term Assignment Survey**



# Corporate Tax Considerations

## ◆ Creation of a PE

- Particular risk in developing markets where no local entity and senior employees are establishing the business
- Also issue if employee is representing legal entity other than local entity

## ◆ Deduction for costs

- Corporate tax rate versus individual tax rate
- Costs unrelieved

## ◆ Recharge arrangements

- Could change the tax status of the employee

## ◆ Indirect tax and other duties

# IRC Section 911

## ◆ Foreign Earned Income Exclusion

- 2008 - \$87,600
- 2009 - \$91,400

## ◆ Foreign Housing Exclusion

- Limitation on Benefits

## ◆ Stacking Rule

# Dispelling Some Myths

- ◆ **183 Days is not always the safe harbor**
- ◆ **If costs are not charged to the host country – no tax**
- ◆ **When I leave the country my obligations stop**
- ◆ **Immigration and Revenue Departments are not linked**
- ◆ **EBTs and STAs are cheaper than LTAs**

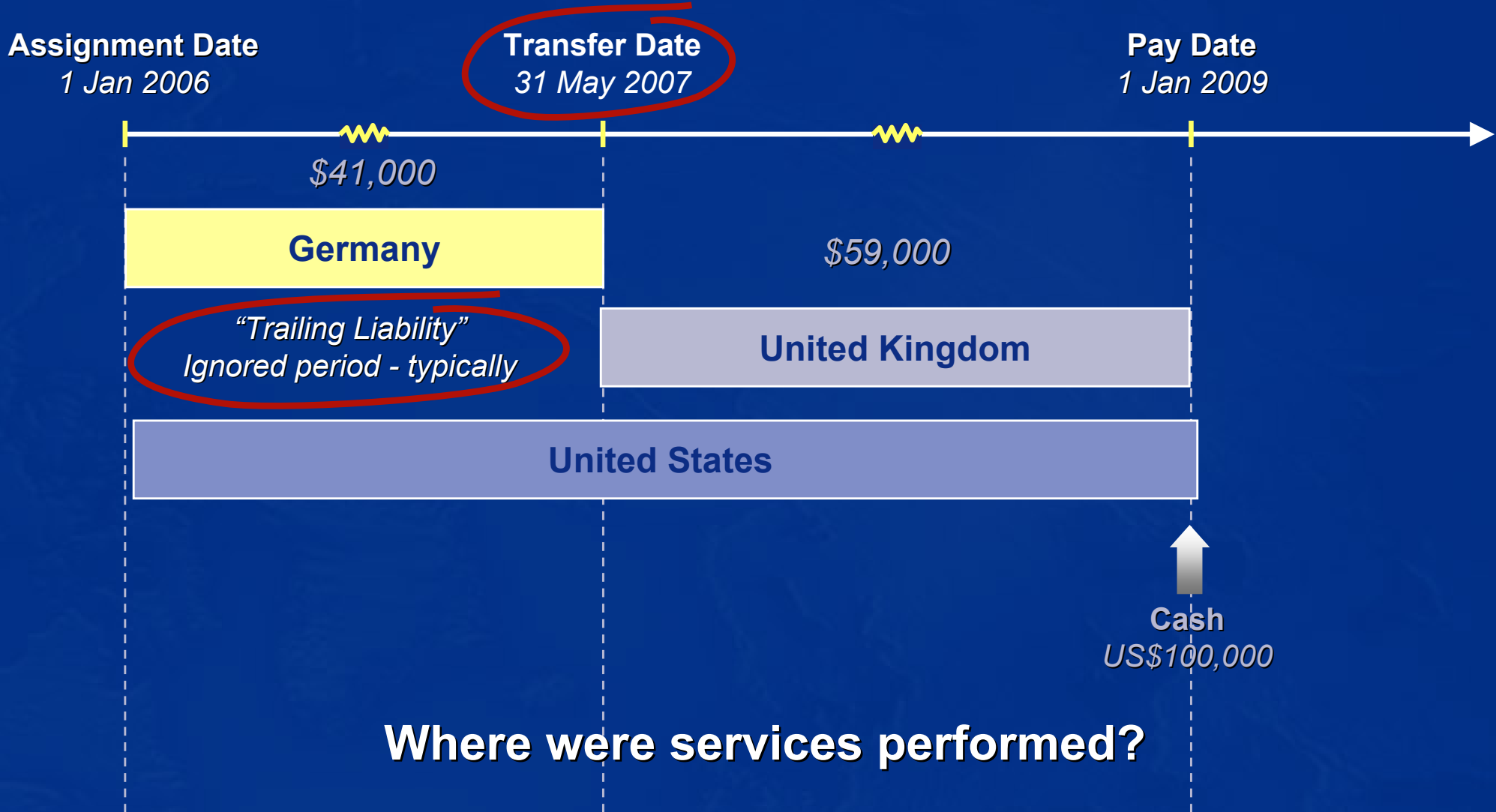
# Opportunities of a Mobile Workforce

- ◆ **Expertise without long term commitment**
- ◆ **Double Tax Treaty / Double Tax Agreements**
- ◆ **Secondment Agreements**
- ◆ **Policy for EBT / STAs / LTAs**
- ◆ **Tracking your employees**
- ◆ **Localization**

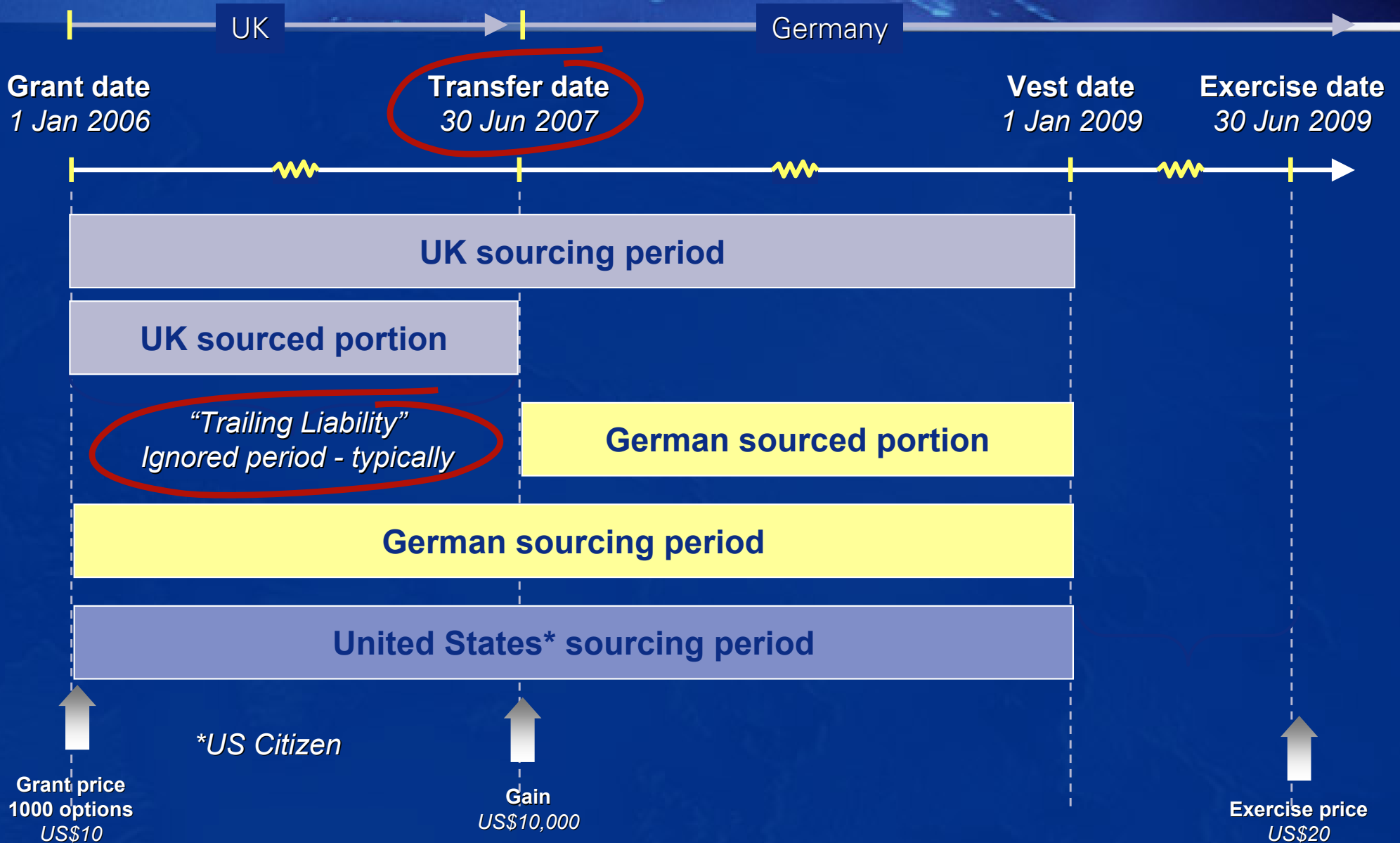
# Trailing Liabilities

- ◆ **Defining a “Trailing Liability”**
- ◆ **The Current Environment**
- ◆ **Key Challenges**
- ◆ **Taking Action**
- ◆ **Protecting the Equalization**

# Cash Award



# Equity Award



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# The Current Environment

- ◆ Is 'trailing liability' an issue in current economy?
- ◆ Increased globally mobile workforces
- ◆ Increased regulation and legislation
- ◆ Intense coverage by the media
- ◆ Increased tax authority scrutiny
- ◆ Complexity around awards



# The Key Challenges

- ◆ Personal tax issue
- ◆ Collecting data
- ◆ Withholding and reporting issues
- ◆ Ownership of the process



# Tax Issues to Consider

- ◆ Employer reporting and withholding obligations
- ◆ Multi country combinations
- ◆ Unclear tax laws in some jurisdictions
- ◆ Tax treaty interaction
- ◆ Multiple vesting periods
- ◆ Tax equalization considerations
- ◆ Deemed exercise / exit tax
- ◆ Foreign tax credits
- ◆ Social security taxes



# Taking Action

## ◆ Quantify potential exposure

- Identify incentive plans, participants, and countries in which they operate
- Determine tax and compliance requirements
- Assess countries and individuals with highest risk

## ◆ Identify stakeholders / ownership

## ◆ Communicate exposure to stakeholders

## ◆ Secure executive sponsorship

# Taking Action

- ◆ **Phased approach to address risk**
- ◆ **Determine retro-active or prospective approach**
- ◆ **Select priority plans and countries to include**
- ◆ **Identify required data and sources and evaluate accuracy and completeness of data**
- ◆ **Coordinate with local payrolls to evaluate compliance requirements**
- ◆ **Coordinate with corporate tax, finance, share plan administrator, internal audit, and other stakeholders**

# Tax Equalization Policy Considerations

## ◆ Cost Containment Considerations

- Is your policy silent?
- What about post assignment years – compliance and ‘trailing liability’?
- Who is responsible and for how long?
- Policy issues related to deferred cash and equity compensation
  - Company compensation or personal income
  - Fully equalized
  - Restrictions on transactions
  - Exit taxes
  - Timing of actual tax different than hypothetical

# GAPP Survey on Tax Equalization Approach to Equity Compensation

## ◆ Question: Restriction on exercising right to purchase or obtain shares

- Participation suspended 4%-6%
- Income treated as personal
  - All participants: 23%
  - Financial Services: 22%
  - High Tech: 31%
  - Energy: 45%
  - Manufacturing: 16%

## ◆ Question: No restrictions apply and income is treated as company income

- All participants: 21%
- Financial: 26%
- High Tech: 11%
- Energy: 18%
- Manufacturing: 22%

***2009 Global Assignment Policy and Practices (GAPP) Survey***



# Questions?

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