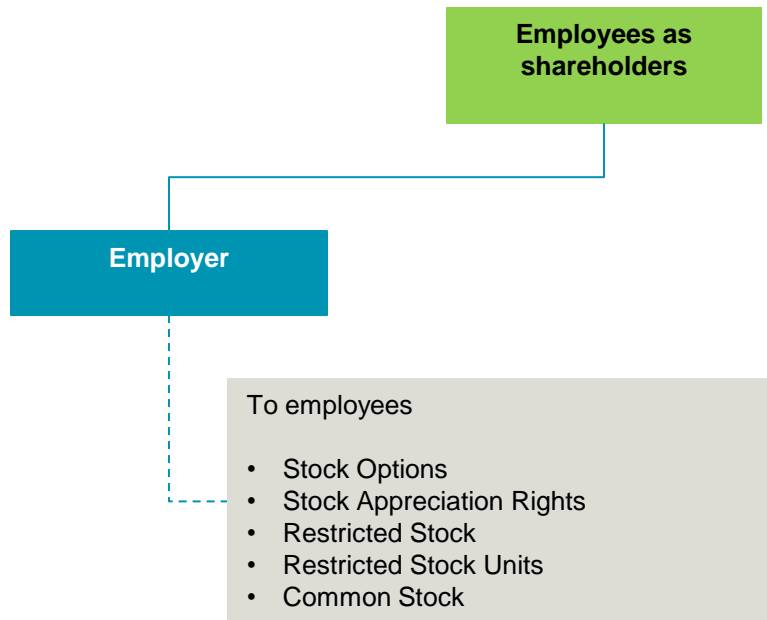


# WOLF THEISS

*Supporting the international growth and development of  
Entrepreneurial Businesses*

*Implementing International Employee Equity Incentive Plans in  
Bulgaria*

# International employee equity incentive plans in Bulgaria



Equity-based awards allow employees to benefit from a growth in the enterprise value of the company they work for. The benefit is received in the form of dividends, increase of capital value in shares awarded, or both. The shares from which this benefit is derived could be awarded to the employee as part of the total remuneration, as an option at market value, on preferential conditions such as a purchase price below value, or by way of deferred payment for the purchase price.

**Increased productivity:** Employees are motivated to perform better as the variable element of their remuneration depends on the overall performance of their employer.

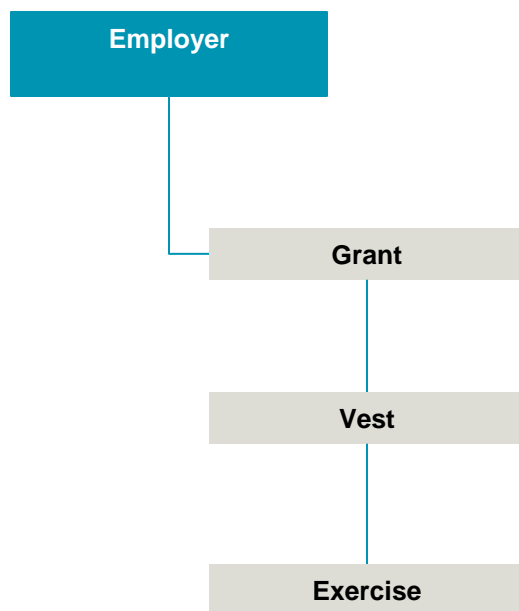
**Retaining key personnel:** Employees are less likely to leave the employer if the benefits of their equity-based awards will be forfeited as a result of the leave.

**Stronger firm commitment:** As a result of the equity plan the employees become long-term shareholders in their employer and will be more committed to the objectives of the employer.

**Business succession:** Equity plans may ensure smooth transition of ownership and management of family enterprises.

In Bulgaria, it is most common to structure equity plans internationally. This is often because the employer is a multinational company or because the investment is held in an international parent company vehicle. International jurisdictions also provide a more flexible legal regime for the award, holding and management of employee equity incentive schemes than is currently the case in Bulgaria.

# Implementation of an international equity plan – vesting terms



To implement an international equity plan, the employer should first determine the vesting conditions and the vesting period applicable to the particular equity-based award.

**Vesting conditions:** These are the conditions that must be satisfied for the employee to become entitled to receive shares, stock options or cash under the equity plan. The vesting conditions could, for example, require the employment relations between the employee and the employer to be continued for a certain period of time, or for certain performance targets to be met (such as a specified increase in the employer's profit over a specified period of time).

**Vesting period:** This is the period during which all the specified vesting conditions of an equity plan are to be satisfied.

Once the vesting conditions and the vesting period are determined, the equity plan is typically implemented in the following stages:

**Grant:** The employer confers on the employee the right to receive shares, stock options or cash, provided the specified vesting conditions under the equity plan, are met.

**Vest:** The employee's right to receive shares, stock options or cash instead of stock vests upon satisfaction of all vesting conditions within the vesting period as required by the equity plan.

**Exercise:** The employee acquires the shares to which it is entitled upon vesting under the equity plan.

# Key considerations for structuring an international equity plan

## Securities laws

- Would the equity-based awards be considered as securities under the applicable laws?
- Would the employer be subject to any securities registration, filing or prospectus delivery requirements?
- Are there any shareholder approval requirements in respect to the equity-based awards?
- Would any applicable capital maintenance rule impede the implementation of the equity plan?

## Tax laws

- Which tax laws would apply considering the international aspects?
- What tax rates would apply?
- Is there any double tax treaty relief available?
- When is the tax due – at grant, at vest or at exercise?
- Would social security obligations apply to the equity - based award?
- Are there any withholding or reporting requirements for the employer?
- Is the employer entitled to tax deductions?

## Employment laws

- What mandatory provisions of labour law would apply to the plan?
- Should the equity-based award be described in the employment agreement?
- Are any non-compete clauses provided in the equity plan enforceable?
- Would the benefit of the equity-based award be considered as acquired right in the context of transfer of business?
- What prior notifications of consultations should the employer carry out for the implementation of the equity plan?

## Other issues

- What registration or filing obligations would the employer have in terms of data-protection?
- What exchange controls approvals or notifications would apply to the employee or the employer in terms of acquisition of shares abroad or transfer of funds to or from abroad?

# Wolf Theiss: Strategic advice to clients across the region



- Real presence on the ground – our offices in 13 countries in the CEE/SEE region enable us to provide our clients with fully integrated and efficient service, irrespective of the jurisdictions involved
- One of the largest and most experienced teams in the CEE/SEE region – over 340 lawyers, focused on not only meeting but exceeding clients' expectations wherever possible
- Comprehensive full-scope legal advice to help make your opportunities happen
- OUR VISION: To be instrumental in building and safeguarding the future prosperity and success of our clients, our people and the markets in which we choose to operate



**Austrian Law Firm of the Year:** 2009, 2012 & 2013  
**Austrian Client Service :** Law Firm of the Year 2011



**Law Firm of the Year:** Austria, 2014  
**Law Firm of the Year:** Central Europe 2010 & 2014  
**Law Firm of the Year:** Eastern Europe & The Balkans, 2009, 2012 & 2015



**Austrian Law Firm of the Year:** 2011, 2012, 2015 & 2016  
**Czech Republic Law Firm of the Year:** 2010  
**Hungarian Law Firm of the Year:** 2009

# Our corporate, employment & tax practice

Wolf Theiss was one of the first Austrian law firms to advise on national and international corporate, tax and employment law aspects of equity plans and is still leading among Austrian law firms. Our clients come to us for such transactions because of our experience with such matters and our ability to take into account all legal and tax aspects of a case at once.

- **Complete Service** - From the moment of appointment, we consider ourselves to be part of your team. We proactively support clients through all stages of the structuring and implementation of equity plans to ensure that tax and legal risk is effectively identified and managed.
- **Holistic Approach** - We provide our clients with advice on the entire spectrum of corporate, tax and employment issues their companies might face from the implementation of cross-border and domestic equity plans. Our clients rely on us for our hands-on expertise and our ability to offer fully integrated services that support both their commercial operations and long-term business goals.
- **Tax planning** - We offer cross-border tax planning in respect to international equity plans aimed at optimizing the overall tax burden of taxpayers by elaborating creative solutions and making use of tax incentives provided for by the law keeping in mind the abuse of law doctrine as well as recent developments on OECD level.



Wolf Theiss' 'very service-oriented' team gives 'in-depth advice' across a wide range of tax matters, with a focus on corporate tax work, financial products, tax litigation and fiscal criminal law.

(Legal 500 2016)



"We work seamlessly with this team - **the lawyers are available and pragmatic, and know the market well.**"

(Chambers 2016)



"We appreciated the team's **swift responses, knowledge of relevant legislation and readiness to take action.**"

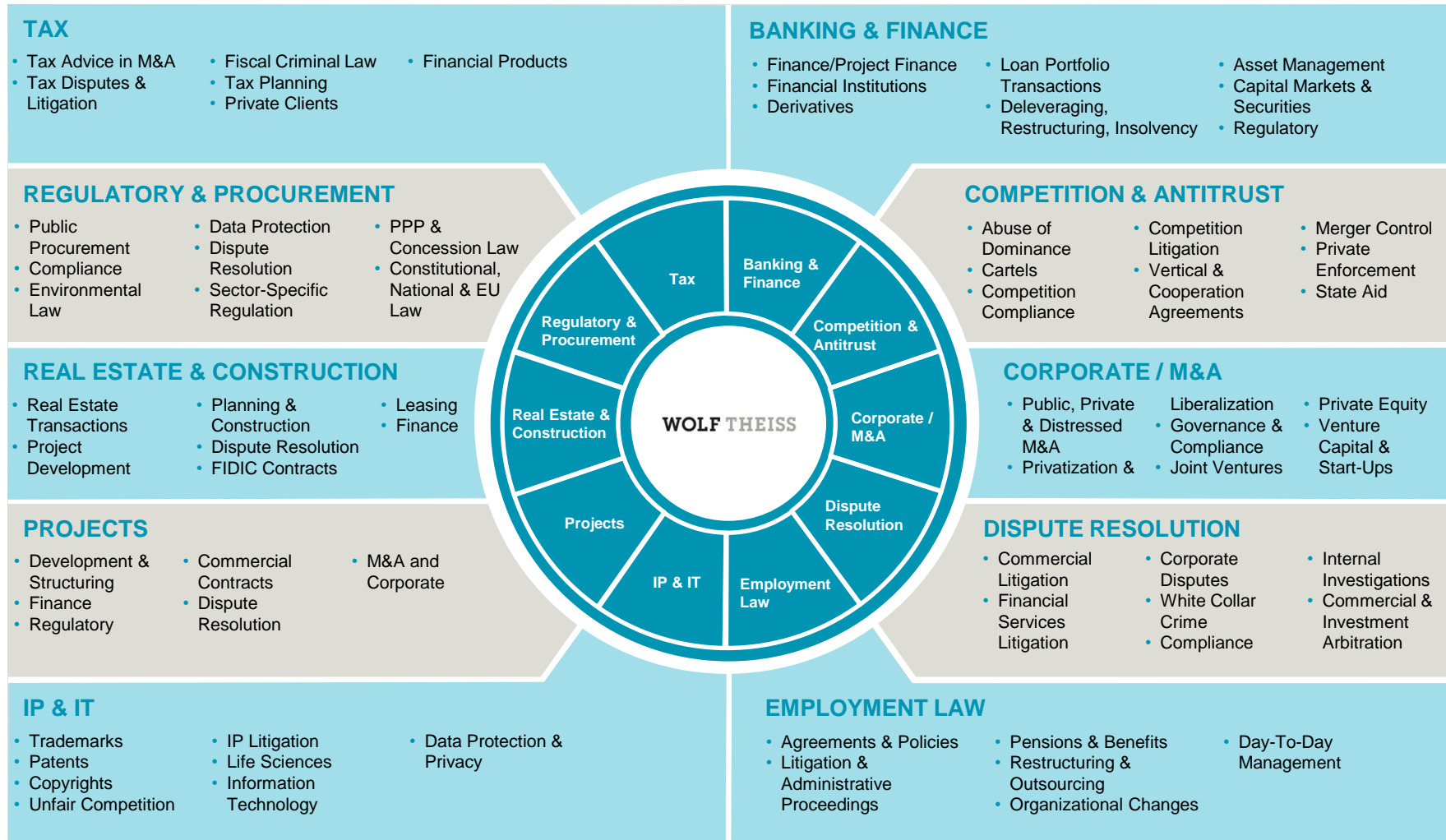
(Chambers 2016)



"The quality of the work from this law firm is **outstanding** – truly **comprehensive and complete**. The communication is **clear**, and the lawyers were **proactive** in providing solutions to the issues."

(Chambers 2016)

# Supported by a comprehensive legal foundation



If you have any questions regarding **WOLF THEISS**, please do not hesitate to contact our experts:



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