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U.K.'S HMRC TO BRING WITHHOLDING ON SHARE-BASED EARNINGS IN LINE WITH CASH PAYMENTS TO EX-EMPLOYEES

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The U.K. tax authority, Her Majesty's Revenue & Customs (HMRC), has announced that, with effect from 6 April 2012, it intends to bring the tax withholding on share-based earnings into line with all other cash payments to former employees.[1] From 6 April 2012, the 0T tax code should also be used against share-based payments made to an employee after cessation of employment which have not been included in Form P45. This will align all post-employment earnings under the same tax code.

Background

On 6 April 2011, HMRC changed the rate of withholding to be applied to taxable cash payments made to an employee after cessation of employment which had not been included on the leaver form P45. This meant, in most cases, employers were obliged to deduct tax using a 0T tax code (zero personal allowances, on a non-cumulative basis) rather than the previous requirement to simply withhold tax at the basic rate (20 percent). (For prior coverage, see *Flash International Executive Alert* 2011-035, 22 February 2011.)

Following representations at that time, HMRC amended the Regulations that came into force on 6 April 2011, which meant payments to leavers specifically in respect of share-scheme-related realizations would continue to have tax withheld at the basic rate (20 percent) rather than the new 0T tax code.

KPMG Note

Employers will need to be aware of this new approach and communicate the changes to the relevant employees for any payments of shared-based earnings paid on or after 6 April 2012. There is no doubt that this change will simplify matters for employers that currently may be experiencing difficulties in operating two different tax codes where a single payment to an ex-employee may contain both cash- and share-based elements.

Footnote:

1 Communicated in an e-mail on 19 December 2011 from an official with HMRC to KPMG LLP (U.K.).