

GMS Flash Alert

Global Compensation Edition

2019-085 | April 30, 2019



United Kingdom - 6 July Deadline for Employment Related Securities Annual Returns

Employment Related Securities (ERS) annual returns for 2018/19 should be filed online in the U.K. on or before 6 July 2019.¹

WHY THIS MATTERS

Employers have an annual obligation to report any notifiable events that occur in relation to ERS (i.e., shares or other securities that are acquired by reason of employment), or rights to acquire ERS (such as employee share options).

Any notifiable events must be reported to HM Revenue & Customs (HMRC) by submitting the relevant return(s) through ERS Online Services on or before 6 July 2019. Automatic penalties will arise if an employer does not submit the relevant ERS return(s) (including any required 'nil' returns) by 6 July 2019.

HMRC uses the information provided in the annual returns to help identify any errors in employer payroll withholding on equity awards, U.K. corporation tax relief claimed in relation to employee share acquisitions, and employee's personal tax returns.

It is therefore important for employers to be confident that the information provided in the annual returns is complete and correct, and can be reconciled with their payroll and corporation tax compliance positions. Early preparation of the returns should give employers a greater opportunity to make any required corrections to end-of-year payroll withholding. It should also allow any historical errors to be identified and proactively managed through voluntary disclosures to HMRC.

Reporting Obligations

In summary, employers have an annual obligation to report any of the following events that occur in relation to ERS during a U.K. tax year:

- Grants of rights to acquire shares or other securities (e.g., options or long-term incentive plan awards);
- Acquisitions of shares or other securities; and/or
- The lifting of restrictions (such as a risk of forfeiture) from shares or other securities.

These obligations extend to certain other reportable events involving shares or other securities which are acquired, or treated as having been acquired, by reason of employment, and apply regardless of where the issuing company is incorporated, resident, or listed.

Events that occur outside a formal employee share plan, such as an acquisition of shares or grant of options during a change of control or other transaction, can also give rise to reporting obligations.

Separate reporting obligations arise in relation to non-tax-advantaged plans (or other arrangements), and each type of U.K. tax-advantaged employee share plan. Note that plans which attract non-U.K. tax advantages, such as U.S. qualified employee stock purchase plans, will be 'non-tax advantaged' for U.K. reporting purposes.

For non-tax-advantaged arrangements, no reporting obligations should arise in relation to ERS awards held by individuals who were not-U.K. resident and had no U.K. duties both (i) on the date of grant; and (ii) throughout the vesting period of the relevant award. However, share-based awards *should* be reported where the employee had U.K. duties at any point in time over the vesting period of the relevant award.

Steps for Employers to Consider

Confirm Registration Status

In order to file the relevant returns, employers who have a reporting obligation for 2018/19 must register each plan or other arrangement with HMRC's ERS Online Services (part of HMRC Online Services), if this has not already been done.

Non-tax-advantaged plans or other arrangements can be included under a single registration. U.K. tax-advantaged plans (which are known as CSOP, SAYE, SIP, and EMI plans) must each be registered separately.

For U.K. tax-advantaged CSOP, SAYE, and SIP plans established during 2018/19, employers **must submit on or before 6 July 2019**, an online declaration that the conditions for tax-advantaged status are met. If this is not done, the relevant tax advantages may be lost.

Employers should review their ERS return registration status to confirm which registrations (if any) were made in previous years and whether any additional registrations are required.

KPMG NOTE

As new registrations can potentially take some time, it is preferable to begin the process in April or May, to allow registration to be completed in good time and all relevant submissions to be made on or before 6 July 2019.

Review Information Required

ERS return templates and associated HMRC guidance are available by clicking [here](#).

Employers should download and review any required returns' templates as soon as possible to confirm whether they hold the information required to complete and submit those returns by the deadline.

Late Filing Penalties

Where a plan or other arrangement has been registered with ERS Online Services (either for this year or for the previous tax year), and the employer does not submit an ERS return by 6 July 2019, **an automatic penalty of £100 per registration** will arise.

Additional penalties will arise where submissions remain outstanding by 6 October 2019 (an additional £300) and 6 January 2020 (a further £300). HMRC has discretion to impose further penalties in relation to any returns that remain outstanding after 6 April 2020.

If no reportable events occur during a tax year in relation to a registered plan, a 'nil' return must be submitted by the filing deadline to avoid a penalty.

Registrations that are no longer required should be closed in order to avoid penalties for inadvertent non-filing arising.

KPMG NOTE

Employers should consult with their qualified tax professionals to confirm their reporting obligations and understand the registration process. They may also wish to seek assistance with completing and submitting the annual ERS returns.

FOOTNOTE:

1 For additional information, see HMRC, "[Tell HMRC about your employment related securities](#)," (published 1 January 2014 and updated 5 October 2018).

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