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GMS Flash Alert

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United Kingdom – Employee Share Plan Reporting 2019/20 Deadline Approaching

Employers in the U.K. should be aware that employment-related securities annual returns for 2019/20 should be filed on or before 6 July 2020.[1]

WHY THIS MATTERS

The deadline for filing the 2019/20 employment-related securities (ERS) annual returns is less than two weeks away. Those who have not already gathered their data should prioritise this to help ensure they have enough time to prepare and file an accurate return before the submission date. It is 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.

While the U.K. tax authority, HM Revenue & Customs (HMRC), accepts that COVID-19 might give some employers a reasonable excuse for late filing, it will be necessary for affected companies to explain how the outbreak prevented them filing on time.

When Are the Returns Due?

ERS returns for 2019/20 should be filed on or before 6 July 2020. However, in an article published in HMRC's *Employment Related Securities Bulletin* on 8 June, it was made clear that HMRC would consider companies have a "reasonable excuse" for late submission if they are prevented from filing on time by the COVID-19 outbreak.

KPMG NOTE

This confirmation is welcome, but employers should note HMRC has not given an open-ended extension to the filing deadline. Where employers are able to do so, they should file their ERS returns by the statutory deadline. Companies that consider they have a reasonable excuse for late filing due to COVID-19 will need to explain to HMRC how the outbreak affected them when appealing the automatic late filing penalty.

What Should the Focus Be?

Subject to the special considerations this year due to COVID-19, there are a number of issues employers should consider as the filing deadline approaches:

- Those who have not yet registered their share plans, then do so urgently – this can take time and may delay filing.
- The relevant stakeholders in the business (HR, payroll, tax, company secretarial, legal) should be identified, and the data required to complete the forms collated.
- That data should be reviewed to identify reportable events and any areas where further information is required.

Employers should allocate enough time to address the complex reporting requirements detailed below.

What Are the Challenges?

It's important that annual returns are accurate, as HMRC could use them to identify any errors in:

- PAYE and NIC operated on share awards;
- corporation tax relief claimed in relation to employee share acquisitions; and
- employees' self-assessment filings.

The annual return process also provides a cross-check of the annual payroll compliance and helps identify and correct any errors in order to help minimise the likelihood of penalties and additional tax charges arising.

Without a reasonable excuse, automatic penalties will be incurred for failure to register or file on time, and awards granted under tax-advantaged plans could potentially lose their tax benefits.

KPMG NOTE

Certain aspects of share plan reporting can be complex.

Internationally Mobile Employees (IMEs)

It is important to identify the IME population to help ensure returns are accurate. This includes assignees as well as permanent movers both to and from the United Kingdom. It is important to capture the entire population and confirm awards have been taxed appropriately. In any cases where IMEs' share awards have not been taxed appropriately, the position should be disclosed to HMRC and corrected.

Net Settled Awards

Identifying awards that were "net settled" by paying cash in relation to the payroll withholding due and settling only the "net" award in shares are crucial matters. Awards that were net settled need to be reported as two separate entries to reflect the net number of shares acquired and the cash payment received.

Net settling share awards will reduce the statutory corporation tax relief available. Whether awards are net settled can sometimes be difficult to determine and specialist advice might be required.

Transactions

Where these involve the acquisition of a new company or a merger with another company, they are likely to give rise to significant additional transactions to report.

Share Plan Reviews

It is advisable to review share plans that were adopted or amended in 2019/20 to determine the specific reportable events, which section of the ERS return needs to be completed, and the statutory corporation tax relief available. Each new HMRC tax-advantaged plan will also need a new registration and its own return.

Next Steps

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 10 January 2020).

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