GMS Flash Alert

Global Compensation

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Australia – The Time Is Now to Plan for FY2024 Employee Share Scheme Reporting

For many employers, the annual vesting cycle for equity incentive plans has already occurred. Such employers may be well advised not to wait until year-end to get started on FY24 Employee Share Scheme (ESS) reporting obligations.

For the year ending 30 June 2024, employers are required to provide ESS statements to employees by 15 July 2024, and to submit the ESS annual report to the Australian Taxation Office (ATO) by 14 August 2024.[1]

WHY THIS MATTERS

If employers do not meet their annual obligation to complete FY24 ESS reporting by the ATO deadlines, financial penalties may apply, as well as other non-financial consequences.

The deadline is particularly important for companies with globally-mobile employees and cross-border board directors who have been awarded shares, stapled securities, or rights (including options) to acquire shares or stapled securities.

For companies with globally-mobile employees, it may take some time for employers to review their share-based remuneration reports and assess who is required to be included on the relevant returns, and then to collect and organise the relevant information for reporting purposes.

In Brief: Employer Obligations

Employers have an annual obligation to report taxable ESS events – this covers all forms of equity compensation, such as shares, performance rights and stock options. Unlike many other countries which require ESS income to be reported via payroll, Australia has a separate reporting requirement.

The Australian Taxation Office (ATO) requires that the ESS annual report be lodged electronically, complying with its detailed software specifications.

As noted above, for the year ending 30 June 2024, employers are required to provide ESS statements to employees by 15 July 2024, and to submit the ESS annual report to the ATO by 14 August 2024. Note that this is the case even if the shares are in a parent company headquartered overseas; there would still be an Australian ESS reporting requirement for Australian-based participants or employees who have worked in Australia during the vesting period of the award.

In addition to Australian ESS reporting to the ATO, there may also be State Payroll Tax due in relation to ESS income that needs to be included in the State Payroll Tax return reconciliations.

Top Tips

1. Start Early

Given the ATO-mandated software specifications for the reporting, most employers face challenges – indeed some may not be able to handle the reporting requirements internally and may engage third-party providers such as KPMG for assistance.

Employers may wish to start the conversation with a third-party provider about the 30 June 2024 reporting now.

2. Be Concise with the Data Request

It is important to be clear on what data is needed and what is not for the reporting, so that any requests made to other parts of the business can be specific.

The reporting typically involves analysis of large data sets, so making sure that the data is being limited to that which is really needed can help reduce risk and increase efficiency.

3. Engage Those with the Right Skills

Considering who is best placed to perform the data cleansing and analysis work is important. It has historically been quite common for organisations to only outsource the final calculation and reporting of the ESS income.

However, where a company has many transactions, employees, or plans, the initial data cleansing and analysis piece that is required before the employer even begins the calculations can be burdensome, stretching in-house resources.

4. Think Global

When employers have globally-mobile employees with ESS income, this can add an extra layer of complexity to the calculations. It is essential to have accurate records showing where these employees have been working.

Business travellers and employees who localise in a location following an international assignment are common examples that organisations come up against and can find challenging.

5. Manage Legislative Change

A legislative change in Australia removed the cessation of employment as a deferred taxing point for all new and existing awards, effective 1 July 2022. Employers should consider the impact of this change, which may allow the employer to start preparation of the ESS reporting earlier in the year than previously. However, it means that individuals may need to be tracked long after they have already left employment.

6. Consider 30-Day Sales

In Australia, if an employee sells his or her shares within 30 days of the deferred taxing point, the proceeds from the sale of the shares become the amount subject to income tax. Companies will need to consider what information they have available to report on share sales and what communications to employees are required if the 30-day sales rule is not taken into account in the ESS reporting.

7. Remembering State Payroll Tax

Although payroll tax reporting doesn't always align with ATO ESS reporting, state revenue authorities actively match payroll tax reporting with ATO ESS reporting and will initiate reviews if there appears to be an unexplained discrepancy.

KPMG INSIGHTS

There have been multiple updates to the ESS legislation over the last 15 years, meaning different rules apply to different awards depending on when they were granted.

The data that is required to be collected tends to be voluminous and spread out amongst different parts of the business and share plan administrators, sometimes in multiple jurisdictions.

Add to this the short turnaround between the 30 June year-end and the first reporting deadline of 15 July, and sometimes it is easy to see how things can become stressful and challenging, and downright "messy."

By focusing attention on the reporting requirements now, particularly whilst the annual vesting cycle is still fresh, it is possible to bring forward the analysis for the bulk of the transactions and potentially save some stress during what is traditionally a very busy period in the first two weeks of July.

If employers require any assistance with their ESS reporting requirements, they may wish to consult with their usual qualified global reward professional or with a KPMG team member (see the Contacts section).

FOOTNOTE:

1 For more information, see the ATO's webpage "ESS – Reporting requirements for employers" at: https://www.ato.gov.au/general/employee-share-schemes/in-detail/employer-reporting-requirements/ess---reporting-requirements-for-employers/.

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Contact us

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