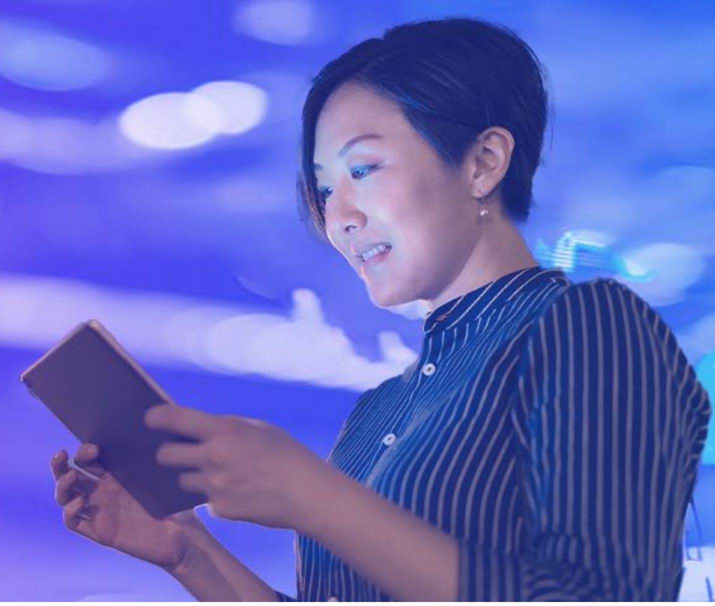
KPMG

GMS Flash Alert



Global Compensation

2024-097 | April 23, 2024

United Kingdom – 6 July Employee Share Plan Reporting Deadline; Registering Trusts

U.K. employers must register any new reportable arrangements and file all Employment Related Securities (ERS) annual returns with the U.K. tax authorities on or before 6 July 2024.[1]

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 or restricted stock units).

WHY THIS MATTERS

If employers do not meet their annual obligation to report notifiable events that occur in relation to ERS during a U.K. tax year (a U.K. tax year runs from 6 April to 5 April) and file related returns for 2023/24 by 6 July 2024, automatic penalties will arise.

Employers must 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.

Share-based awards held by international-mobile employees, where reporting, payroll, and corporation tax requirements are not completely aligned, can present challenges. Employers should review their mobile workforce carefully to identify any such difficulties and determine how these should be addressed.

Early preparation of the returns gives employers more time 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 HM Revenue & Customs (HMRC), the U.K. tax authorities.

Process: In Brief

Any notifiable events must be reported to HMRC by submitting the relevant return(s) through ERS Online Services by the deadline. This requires prior registration. HMRC uses the information provided in the annual returns to help identify any errors in employer payroll withholding on equity awards, errors in U.K. corporation tax relief claimed in relation to qualifying employee share acquisitions (e.g., where awards are 'net-settled' – see below), and errors or omissions in employees' personal tax returns.

Reporting Obligations

Overview

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 also apply to certain other reportable events involving shares or other securities which are acquired, or treated as having been acquired, by reason of employment. **This applies 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 transaction, can also give rise to reporting obligations.

If no reportable events occur during a tax year in relation to a registered plan, a 'nil' return must be submitted.

Reporting U.K. Tax-Advantaged and Non-Tax-Advantaged Plans

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. Plans that attract non-U.K. tax advantages, such as U.S. qualified employee stock purchase plans or Irish Approved Profit-Sharing Schemes, are 'non-tax advantaged' for U.K. tax and reporting purposes.

KPMG INSIGHTS

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 throughout the relevant vesting period. However, share-based awards should be reported where the employee had U.K. duties, or was covered by the U.K. social security system, at any point over the vesting period of the relevant award.

Where internationally-mobile employees' awards are reportable on both a U.K. ERS return and an equivalent overseas return (e.g., an Australian employee share scheme return)[2], employers should make sure that the relevant entries on each country's return are consistent with each other.

Steps For Employers to Consider

Confirm Whether Registration Is Required

Employers that have a reporting obligation for 2023/24 must register each plan or other arrangement with HMRC's ERS Online Services, if this has not already been done, in order to file.

U.K. tax-advantaged plans (which are known as CSOP, SAYE, SIP, and EMI plans) must each be registered separately. Other arrangements (including plans that do not qualify for U.K. tax advantages – even if they qualify for overseas tax reliefs) can be included under a single registration.

For U.K. tax-advantaged CSOP, SAYE, and SIP plans established during 2023/24, employers must submit an online declaration on or before 6 July 2024, confirming 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 INSIGHTS

As new registrations can take time, it is preferable to begin the process in April or May so that all relevant submissions can be made on or before 6 July 2024.

Employers are advised to consult 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. However, registration **must** be performed by the employer, as agents **cannot** register a plan or other arrangement on the employer's behalf.

Review Information Required to Complete Returns

ERS return templates and associated HMRC guidance are available by clicking here.[3] 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.

KPMG INSIGHTS

'Cash cancelled' and 'net settled' share-based awards – where employees acquire cash rather than shares in respect of some or all of the award – must be specifically reported in the ERS return. Identifying and correctly reporting such awards can be challenging, and it is important to appreciate that 'cash cancellation' or 'net-settlement' can affect the availability, timing, and quantum of corporation tax relief in respect of an employee share award. HMRC published new corporation tax guidance on this in July 2023[4], which employers should review as part of their 2023/24 ERS reporting to make sure that, where relevant, submitted U.K. corporation tax returns, as well as ERS returns, are consistent with that guidance.

Late-Filing Penalties

Where a plan or other arrangement is registered with ERS Online Services, but the employer does not submit an ERS return by 6 July 2024, an automatic penalty of GBP 100 per registration will arise.

Additional penalties will arise where submissions remain outstanding by 6 October 2024 (GBP 300) and 6 January 2025 (a further GBP 300). HMRC can impose additional penalties for any returns that remain outstanding after 6 April 2025.

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

Other Considerations for U.K. Employee Share Plans

Though not linked to 2023/24 ERS reporting, employers should also consider what impact the following recent and prospective developments might have on their employee share plans:

- The reduction in the tax-free allowance for dividends to GBP 500 from 6 April 2024, which might result in some individuals who acquire shares through employee plans being required to report and pay income tax on dividends for the first time (and potentially turning to their employer for guidance).

- How the further reduction of the U.K. capital gains tax annual exempt amount to GBP 3,000 from 6 April 2024 could impact participants in U.K. tax-advantaged SAYE plans.[5]

- The proposed repeal of the U.K. 'non-domicile' rules and their replacement with a new 'Foreign Income and Gains' regime, which is expected to take effect from 6 April 2025.[6]

Should Employee Trusts Also Register with HMRC?

Under a separate reporting obligation, employee trusts, including those established to operate employee share plans, are required to register with HMRC's Trust Registration Service (TRS) if they incur certain U.K. tax liabilities (e.g., a Stamp Duty Reserve Tax charge on making an unconditional agreement to acquire shares in a U.K.-registered company).[7] Some employee trusts without a relevant U.K. tax liability are also required to register with the TRS if certain conditions are met.

TRS registration should be completed within 90 days of the event that triggers a registration obligation (e.g., within 90 days of a relevant U.K. tax liability arising).

KPMG INSIGHTS

Employers should review any employee trusts that they operate and confirm whether any U.K. TRS registration obligations have arisen. Employers could consider obtaining appropriate professional advice on any potential TRS obligations, assistance with completing a TRS registration, and with submitting any relevant updates on a timely basis.

FOOTNOTES:

1 For more information, see "Guidance: Tell HMRC about your employment related securities schemes" on the U.K. government's website (www.gov.uk).

2 See a report from our colleagues with KPMG in Australia in *GMS Flash Alert* 2024-084 (12 April 2024).

3 See footnote 1.

4 See "New HMRC guidance on net-settled and cash cancelled employee share awards" (7 August 2023), an online publication of KPMG LLP (U.K.).

5 See our report in *GMS Flash Alert* 2023-052 (9 March 2023).

6 See our report in *GMS Flash Alert* 2024-049 (7 March 2024).

7 For additional information, see "Guidance: Register a trust as a trustee" and "Guidance: Manage your trust's details" on the U.K. government's website (www.gov.uk).

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in United Kingdom:

Lorna Jordan
Director
Tel. + 44 (0) 78 2593 1385
Lorna.Jordan@kpmg.co.uk

Alison Hughes
Senior Manager
+44 207 311 2626
alison.hughes2@kpmg.co.uk

The information contained in this newsletter was submitted by the KPMG International member firm in United Kingdom.

www.kpmg.com

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

Learn about us: **kpmg.com**

GMS Flash Alert is a publication of the KPMG LLP Washington National Tax practice.