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Employer Share Plan Reporting 2018/19:

What should you do to prepare?

Against a backdrop of on-going HMRC employer compliance reviews, extensively targeting a wide demographic of employers, it is important to assure the accuracy of return filings. Early preparation also means more chance to ensure correct end of year payroll withholding where required and allows any historic failures unearthed to be proactively managed via voluntary disclosure.

What do employers need to do?

Year-end employee share plan reporting involves three key tasks:

- Registering new plans (or other arrangements) established during 2018/19. Registration is completed via HMRC's Employment Related Securities (ERS) Online Services;
- Certifying that certain tax advantaged plans meet the conditions to attract tax relief; and
- Submitting the required annual returns detailing reportable transactions, or 'nil' returns where no reportable events occurred.

Each new tax advantaged share plan – that is Save As You Earn (SAYE) plans, Company Share Option Plans (CSOPs), Share Incentive Plans (SIPs) and Enterprise Management Incentive (EMI) plans – must be registered individually.

Other plans (including overseas plans with UK participants) may be registered individually or included under a single registration.

Certain events that occur outside a formal employee share plan, such as an ad-hoc acquisition of shares or grant of an option on a change of control or other transaction, can also give rise to reporting obligations and might need to be registered as a 'plan'.

Why is this important?

Registration

It is crucial that SAYE plans, CSOPs and SIPs established in 2018/19 are registered on ERS Online Services before **7 July 2019**. Each grant of EMI options must be reported to HMRC within 92 days, meaning new EMI plans must be registered with HMRC within 92 days of the first grant of options.

Unless the employer has a reasonable excuse, late registration of a new SAYE plan, CSOP or SIP means that the plan will only qualify for income tax relief from 6 April 2019. This means that awards granted in 2018/19 would **not** qualify for tax relief (i.e. they would be treated as non-tax advantaged awards, as would late notified EMI option grants).

Reporting

HMRC uses information provided in the annual returns to identify any errors in:

- PAYE and NIC operated on share based awards;
- Corporation tax relief claimed in relation to employee share acquisitions; and/or
- Employees' self-assessment filings.

Employers must therefore be confident not only that the information provided in the annual returns is complete and correct, but that it is consistent with their payroll and corporation tax compliance positions.

Share awards held by Internationally Mobile Employees (IMEs), where the reporting, payroll and corporation tax requirements are not perfectly aligned, can present particular challenges.

Completing the annual share plan returns is a good opportunity to confirm that the payroll compliance is accurate and, in particular, that PAYE due on share awards has been made good in full by employees to prevent additional 'tax on tax' charges arising.

Penalties

An automatic penalty of £100 per plan registration will arise in relation to a late submission.

Additional penalties arise where submissions remain outstanding by 6 October 2019 (an additional £300) and 6 January 2020 (a further £300).

Further penalties of £10 per day can be imposed if a return has not been submitted by 6 April 2020.

A penalty of up to £5,000 can be imposed in respect of material inaccuracies in returns which are careless, or which are not corrected without delay.

What can I do to get ready?

HMRC will accept share plan returns for 2018/19 from 6 April 2019. Practical steps employers should consider taking in preparation of such reporting include:

- Check whether any new reportable arrangements were established in 2018/19 and begin the registration process – ideally this should be started **before the end of April** to allow for potential delay;
- Confirm whether changes were made to existing SAYE, CSOP, SIP or EMI plans in 2018/19 and, if so, whether these affect their qualifying status;
- Understand how the plans operate, for example:
  - If a plan provides for both 'Restricted Stock Units' and 'Restricted Stock Awards', is the distinction understood?
  - Can you establish which employees have been granted which type of award – who holds this data and is it robust?
  - Are shares acquired subject to restrictions (this is common in some private company and continental European plans)?
  - Are awards 'cash canceled' or 'net settled' (do employees acquire cash, rather than shares, in respect of all or part of the award – for example in relation to the payroll withholding due)?
- Review the reportable events and understand which stakeholders in the business (e.g. human resources, payroll, tax, legal, company secretarial) hold the relevant information – is the data accessible and robust for reporting purposes, particularly in relation to IMEs?

How KPMG can help

KPMG can assist employers to complete and submit plan returns, review their payroll and corporation tax compliance processes for employee share plans and confirm tax-advantaged plans' qualifying status.

If you have any queries, or would like to discuss how KPMG can assist you, please get in touch with the Employment Tax team below or your usual KPMG contact.

Employment Tax Team

Eunan Ferguson
Director
T: +44 (0)28 9089 3706
E: eunan.ferguson@kpmg.ie

Aidan Smith
Director
T: +44 (0)28 9089 3772
E: aidan.smith@kpmg.ie

Christopher Morris
Associate Director
T: +44 (0)28 9089 3751
E: christopher.morris@kpmg.ie