Cooley

UK Reporting for Share Plans With UK Participants Due July 6

June 6, 2023

The deadline is approaching for the HM Revenue & Customs (HMRC) year-end reporting requirements for companies in the UK, US and elsewhere with share options and other share awards granted to – and share acquisitions by – UK employees between April 6, 2022, and April 5, 2023. Reporting also may be required in respect of non-UK resident employees who carry out work duties in the UK.

These annual returns must be submitted by midnight (UK time) on Thursday, July 6, 2023, via the HMRC employment-related securities (ERS) online service. By such date, companies must have:

- Registered to use the service.
- Registered each plan or arrangement.
- Self-certified any UK tax-advantaged plans.
- Reported each share award grant and share acquisition related to a share award that occurred during the relevant reporting period.

If you have not yet registered to use the ERS online service, you should do so as soon as possible and by no later than June 29, 2023, as registration may take several days.

Nil returns are required for all inactive plans covering UK employees until you have notified HMRC that the plan has ceased through the ERS online service.

Online filing of annual returns in relation to UK tax-advantaged and non-tax-advantaged plans or arrangements

The requirements catch all share options and share awards granted to – as well as shares acquired by – UK employees by reason of their employment, including participation in non-UK arrangements, such as US employee stock purchase plans known as ESPPs. The requirements also catch the cancellation of existing share awards and certain other events, such as variations, lapses and sales of shares for more than market value.

A separate online return must be filed to report transactions under each registered UK tax-advantaged plan – enterprise management incentives (EMIs), company share option plans (CSOPs), save as you earn (SAYE) plans or share incentive plans (SIPs) – by the July 6, 2023, deadline.

Non-tax-advantaged plans or arrangements

These are referred to on the HMRC website as "other" plans. You can choose whether to file separate returns for each arrangement or a single return covering transactions occurring under all non-tax-advantaged plans and arrangements. The returns are required to contain details of any share options that have been granted or exercised, as well as any other reportable events in relation to employment-related securities (including cancellations, variations, lapses and sales of shares for more than market value).

View ERS annual return templates and associated HMRC guidance.

Penalties for noncompliance

Failure to file these annual returns on time will result in an automatic penalty of £100 per plan/arrangement, and any benefits from tax-advantaged plans may be lost. Additional penalties will arise where submissions remain outstanding by October 6, 2023 (an additional £300), and by January 6, 2024 (a further £300), with HMRC having discretion to impose further penalties in relation to any returns that remain outstanding after April 6, 2024.

In addition to penalties for failing to file these annual returns, failure to register a tax-advantaged plan will affect the tax treatment of future participants (and additionally, in the case of CSOPs, current participants).

Key Contacts

Paula Holland London	pholland@cooley.com +44 (0) 20 7556 4250
Nicola Squire London	nsquire@cooley.com +44 (0) 20 7556 4506
Bethan Chalmers London	bchalmers@cooley.com +44 20 7556 4619