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Employee share plan reporting, have you reported yours?

What do employers need to do?

For the tax year 2018/2019, if a company (whether UK or overseas) operates an employee share plan for UK employees, then it needs to do the following by no later than **6 July 2019:**

- **Notification**. Notify HMRC of any new share plans that it has established during the 2018/19 tax year.
- **Certification**. Certify to HMRC that certain tax advantaged share plans established during the 2018/2019 tax year meet the conditions necessary to attract tax relief.
- **Annual return**. Submit (file) the 2018/19 annual share plan return to HMRC (or make a nil return).

Companies must give effect to the above by using the HMRC Employment Related Securities (ERS) online service (called ERS online) which can be accessed through the company's PAYE online portal.

All companies - whether UK or overseas - that trigger a reportable event will need to notify their plans and file their annual returns through the online portal. Nil returns are required where there are no reportable events.

Failure to comply will result in automatic penalties for each plan registered and, for UK tax advantaged plans, the loss of the associated tax advantages.

Notification: new plans

If a company establishes a new share plan during the 2018/2019 tax year, that plan will need to be registered online with HMRC before the annual share plan return (see below) can be submitted. The new share plan registration process can take up to a week to complete, so any new plan should be registered as soon as possible to allow plenty of time for the annual return to be submitted by the 6 July 2019 deadline.

There is no way to correct errors made in relation to the name or the type of plan when the plan is registered with HMRC. If an error occurs, the plan must be notified as ceasing and then re-registered with the correct name or plan type. Failure to notify HMRC that the plan is no longer being used can result in penalties for late filed annual returns.

Finally, if a company has made additional share option grants or awards under a plan that has previously been notified to HMRC, there is no need to re-register that plan.

Certification

If, during the 2018/2019 tax year, a company operated a new CSOP, SAYE or SIP, it must notify HMRC of the existence of the new plan by 6 July 2019. The notification includes a declaration that the requirements of the relevant legislation have been met.

Note that for EMI purposes it is the grant of the options that must be notified to HMRC and this must be done within 92 days from the date of grant. The notification must be made online.

Annual share plan return

Companies (UK and overseas) will have a filing requirement if there has been any reportable activity under their existing share plans during the 2018/2019 tax year.

Share plan reportable activity includes, in relation to UK employees, directors and NEDs:

- **Any grants of share options or share awards made.**
- **The exercise of any options or the acquisition of any shares or securities (including loan notes).**
- **Cash cancellation payments in respect of any share awards.**
- **Certain disposals of shares or securities (which have triggered an income tax charge).**
- **Certain other events in relation to shares or securities (known as reportable events).**
- **Certain events under UK tax advantaged plans.**

If a company has previously registered a share plan with HMRC but there has been no reportable activity during the 2018/2019 tax year, it must nevertheless file a **nil return**. Failure to do so will result in a non-filing penalty.

Penalties

Penalties for late or incorrect filing of annual returns start automatically on **7 July 2019** at a rate of £100, with an incremental increase of £300 being charged three months after the filing date and then again at six months if the return has still not been submitted. An additional ***daily*** fine of £10 will be levied after nine months until the return is submitted.

HMRC also punishes errors in the plan documentation. If an annual share plan return contains a material inaccuracy that is careless or deliberate or simply not correct, HMRC could levy fines of up to £5,000.

How Brodies can help you

Registering share plans and filing annual returns can be a complicated process. Brodies can assist employers to complete and submit plan returns for employee share plans and confirm tax-advantaged plans' qualifying status.

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