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Global Employer Services (GES)

Global Rewards Update:
United Kingdom – Guidance published by HM Revenue & Customs in respect of employee share plans in the UK

August 2013

Background

HMRC over recent months have published a number of bulletins providing information and updates in respect of share plans in the UK, including approved plans.

These are published at **http://www.hmrc.gov.uk/shareschemes/news/** but this GRU summarises some of the key announcements.

Changes to Tax Advantaged Share Plans

The Finance Act 2013 introduced a number of changes to the taxation and operation of approved share plans. The majority of these changes took effect from Royal Assent (17 July 2013). In summary these changes include:

- Removal of the statutory £1,500 annual dividend reinvestment limit for the Share Incentive Plan (SIP).
- Greater flexibility around the share price to be applied for shares acquired during SIP accumulation periods. In particular, companies will now be able to set the price at which shares will be acquired, whether this is (i) the share price at the start of the accumulation period, (ii) the share price at the end of the accumulation period or (iii) the lower of the two.
- Abolition of a specified retirement age in SIPs, Save As You Earn plans (SAYE) and Company Share Option Plans (CSOP). As such, employees are now able to exercise their SAYE or CSOP options or withdraw their shares from a SIP free of income tax and National Insurance Contributions where they cease employment on the grounds of retirement regardless of the age at which they retire.
- Broad alignment of the 'good leaver' rules for SIP, SAYE and CSOP.
- New tax advantages for SIP, SAYE and CSOP participants on certain cash takeovers of a company.
- Removal of the prohibition of the use of restricted shares in SIP, SAYE and CSOP (with the exception that Partnership Shares acquired under a SIP still cannot be made subject to a risk of forfeiture).
- Removal of the material interest rules for SIP and SAYE, and alignment of the material interest percentage for CSOP and Enterprise Management Incentives (EMI) at 30 per cent.

- EMI participants will now have 90 days following a disqualifying event to exercise EMI options with tax advantages.

> **Action**
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> The majority of these changes apply automatically to the extent that the current plan rules allow for legislative updates and changes. Companies should however consider:
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> - Whether amendments should be made to the Plan Rules to take advantage of new tax exemptions and/or bring the rules up to date.
> - What changes are needed to employee communications.
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> HMRC have stated they will publish guidance in respect of the changes shortly.

Online registration, self-certification and online filing of share plans

In May 2013, HMRC set out a high level overview of their plans to introduce online registration and online filing for all share plans as well as self-certification for approved share plans. In summary, HMRC have announced the following:

- From 6 April 2014, employers will be required to register existing and new approved and unapproved employee share plans with HMRC via the PAYE Online service. Companies will then be obliged to file their annual share plan returns (including Form 42) online for the 2014/15 tax year onwards.

- HMRC is currently reviewing what information will be required as part of the online filing and this may be different from the current reporting requirements. HMRC has also indicated that the "intelligent forms", which will be used for online filing, will be available for employers to download and save on their own systems at the beginning of the tax year. This would allow forms to be completed in real time during the relevant year, prior to submission to HMRC by 6 July after the end of the year.

- In addition, the Government accepted the Office of Tax Simplification's recommendation that the current approval process for approved share plans should be changed to a self-certification process. As such, where companies wish to implement a tax advantaged plan, they will no longer need to seek formal approval of the plan from HMRC. Instead they will be asked to self-certify that their plan meets the conditions set down in legislation. This would be done as part of the online registration process mentioned above.

HMRC are currently contacting a number of employers for their thoughts and expect to publish further details of these changes later in the year.

> **Action**
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> Employers should await further information from HMRC regarding these changes, but should be prepared to register new and current share plans via the PAYE Online service.
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> Employers may also want to review the manner in which they compile their share plan annual returns, and consider whether this approach should change as a result of the introduction of online filing.

Employee Shareholder Status

As discussed in the **GRU of October 2012**, Employee Shareholder is a new employment status available from 1 September 2013. Under the legislation, individuals may be given qualifying shares worth between £2,000 and £50,000 in return for giving up certain employment rights, which include:

- Claims for unfair dismissal (except where a dismissal is 'automatically unfair' or relates to anti-discrimination law);

- Statutory redundancy payments;
- Requests for flexible working; or
- Requests in relation to study or training.

Under the employee shareholder status the tax advantages are as follows:

- the first £2,000 of qualifying shares would be exempt from income tax and NIC;
- any excess over the £2,000 would be subject to income tax and NIC in the normal way;
- any growth in value of the first £50,000 of qualifying shares would be exempt from capital gains tax.

Businesses awarding employee shareholder shares may agree a share valuation with HMRC's Share and Assets Valuation team in advance of making the award.

Action

Employers may want to consider whether the Employee Shareholder is an appropriate employment status for their staff, or whether they wish to introduce the status for any future employees.

Valuation of shares on LTIP vesting

Where an employee exercises a share option and immediately sells the shares acquired, HMRC have previously confirmed their agreement that the sales proceeds received equate to "market value" for tax purposes (provided that the shares are sold on the same day or the next day).

HMRC have now confirmed their agreement that the same valuation methodology can apply to shares sold on the vesting of an LTIP. However, where the sale of shares extends beyond the second day of vesting, HMRC have specifically stated that the statutory valuation approach should be followed which may not equate to the sales proceeds received.

Action

Employers may want to consider their current approach of selling LTIP shares to cover the taxes due at vesting, in particular to ensure that if they use the sale proceeds as the market value, the shares are sold on the day of vesting, or on the following day.

People to contact

For assistance with this matter, or any other issue related to the operation of your global rewards plans, please contact your local Deloitte global rewards consulting services adviser or email us at **globalequity@deloitte.com**, and a global rewards consultant will contact you.

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