

EMPLOYEE SHARE PLANS AND REMUNERATION CALENDAR: WHAT CAN WE EXPECT IN 2015?

Given the raft of tax and regulatory changes that look certain to continue during 2015, we are starting 2015 with a calendar of the issues and developments that we are going to be grappling with this year. An interesting added dynamic for 2015 will be the General Election on 7 May, the result of which may lead to additional Budget Day and a host of further reforms. We hope you find this 2015 calendar useful.

The expected developments are summarised in the calendar, with further details then set out on the following pages. Unless stated otherwise, the changes are potentially relevant to all companies in all sectors.

Please get in touch if you have any questions or would like further details on any of the developments. We will update you on these new developments during the course of 2015.

JANUARY	<p>(1) Financial service sector: new claw-back requirements in the PRA's Remuneration Code apply to remuneration awarded on or after 1 January 2015 – relevant to PRA authorised firms.</p> <p>(2) Financial service sector: revised Remuneration Code requirements expected to apply to awards made for performance periods commencing on or after 1 January 2015 – relevant to PRA and FCA authorised firms.</p> <p>(3) HMRC expected to publish final version of share plan online year end share returns.</p>
FEBRUARY	Technical consultation closes on draft Finance Bill 2015 measures (including changes to the taxation and "payrolling" of employee benefits and expenses).
MARCH	<p>(1) 18 March is 2015 Budget Day!</p> <p>(2) Financial service sector: consultation on revised EBA guidelines on remuneration policies and practices expected in Q1 2015 – relevant to banks and other financial institutions.</p>
APRIL	<p>(1) Share plan year end returns must be submitted online for the first time.</p> <p>(2) Revised tax and NIC rules for options/awards granted to internationally mobile employees (IMEs) apply.</p> <p>(3) Revised corporation tax (CT) relief rules for options/awards granted to IMEs apply.</p> <p>(4) Tax exemption for "trivial benefits" expected to take effect.</p>
MAY	UK General Election to be held.
JUNE	Possible further Budget may be held (depending on the results of the General Election).
JULY	<p>6 July: deadline for share plan registration and self-certification.</p> <p>(1) 6 July deadline for registering/self-certifying share plans approved by HMRC before 6 April 2014.**</p> <p>(2) 6 July initial deadline for registering/self-certifying new tax-qualifying plans.**</p> <p>(3) 6 July deadline for registering non-tax qualifying plans.**</p> <p>(4) 6 July deadline for online submission of share plan year end returns for 2014/2015.**</p> <p>**We recommend that registration takes place well in advance of 6 July 2015 to give time to comply with the new requirements, including submission of year end returns online.</p>
DECEMBER	Chancellor's Autumn Statement expected - date TBC

January

- (1) **Financial service sector: claw-back requirements.** For Prudential Regulation Authority (**PRA**) authorised firms new rules on **claw-back** apply to **remuneration awarded on or after 1 January 2015**, in addition to the existing malus (pre-vesting adjustment) requirements. Variable remuneration must be subject to **claw-back for at least 7 years from the date on which it is awarded**. Firms should seek to recover "**an appropriate amount**" corresponding to some or all vested variable remuneration. Firms are required to make "**all reasonable efforts**" to exercise claw-back where there is **reasonable evidence of employee misbehaviour or material error, or where the firm or relevant business unit suffers a material failure of risk management**. More extensive claw-back provisions are also due to be introduced for awards made for performance periods commencing on or after 1 January 2015 (see further below).
- (2) **Financial service sector: Remuneration Code requirements.** Following a joint PRA/Financial Conduct Authority (**FCA**) consultation, a number of changes are expected to their respective Remuneration Codes, which will apply to awards made for **performance periods commencing on or after 1 January 2015**. The material changes which were consulted on include **extending minimum deferral periods** for all Material Risk Takers (MRTs), with Senior Managers subject to a **minimum deferral of 7 years**, with the first vesting no earlier than the third anniversary of the award and vesting no faster than *pro rata*. Other MRTs will be subject to a **minimum deferral of 5 years**, with the first vesting no earlier than the first anniversary of the award and vesting no faster than *pro rata*. The FCA also consulted on the revised clawback rules which the PRA as already introduced (see above). In addition, both the PRA and the FCA are proposing a further amendments so that for Senior Managers there should be an option to **increase the new 7 year clawback by up to a further 3 years** in certain circumstances.
- (3) **Mandatory online filing of share plan year end returns.** All companies operating share plans (whether tax-qualifying or not) **must register online** with HMRC so that they can **submit their share plan year end returns for 2014/2015 by 6 July 2015**. HMRC is finalising the templates for online returns but is expected to issue the final versions during January 2015.

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February

Finance Bill 2015. Draft measures for the Finance Bill 2015 were published on 10 December 2014. A limited consultation on the draft measures (including in relation to the taxation and payrolling of employee benefits and expenses closes on 4 February 2015.

March

- (1) **Budget Day 2015.** The 2015 Budget will be on 18 March. As Parliament will be dissolved on 30 March 2015 any Finance Bill is likely to contain only essential measures. Whether the remaining measures are then incorporated into a second Finance Bill will depend on the result of the General Election.
- (2) **Financial service sector: EBA Remuneration Guidelines.** The European Banking Authority has indicated that it will **review and update its existing detailed guidelines on remuneration policies and practices** in light of the revised requirements set out in CRD 4. The revised guidelines are expected to cover, amongst other things, **further guidance on the status of role based allowances** in the context of the CRD 4 bonus cap.

April

- (1) **Mandatory online filing of share plan year end returns.** Online share plan returns for the 2014/2015 tax year must be submitted from 6 April 2015.
- (2) **Tax/NIC treatment of options/awards granted to IMEs.** Important changes to the **taxation and NIC treatment** of share options and awards granted to IMEs come into force on **6 April 2015**. The new rules **will apply to existing options/awards as well any future options/awards**. Under the new rules income arising from share options/awards may be apportioned between income treated as earned in the UK and income treated as earned outside the UK over the "**Relevant Period**" (e.g. for an option the Relevant Period will be between grant and vesting). The rules will apply where the IME is either **not UK resident** for part of the relevant period or is a **UK resident non-domicile taxable on**

the remittance basis. Proposed new NIC rules have also been consulted on, but have not been published. Under the proposed version of the rules, an IME will not have to pay NICs for any time during the Relevant Period when he was **not resident or present in the UK** or was **subject to the social security system of another country** as a result of EU law or an international social security agreement.

- (3) **CT relief rules for options/awards granted to IMEs.** Some helpful changes are also being made to the **statutory CT relief provisions** for share options and awards granted to IMEs come into force **on 6 April 2015**. The new rules will apply to existing options/awards as well any future options/awards. A UK company will be able to claim a statutory CT deduction (A) for options exercised/shares acquired by an IME seconded to it from a non-UK company; and (B) where an IME acquired an option/shares by reason of a non-UK employment and at that time or later takes up employment with the UK company.
- (4) **Tax exemption for trivial benefits.** Currently there is no minimum cost threshold for benefits in kind being subject to tax/NIC. The Government has confirmed that from **April 2015 a statutory tax exemption will apply for "trivial benefits in kind" costing less than £50**. This will mean that employers will no longer have to agree with HMRC which benefits are "trivial" for the purposes of relying on a tax/NIC exemption granted by way of HMRC concession. However, the new exemption will not apply where the trivial benefit is provided in connection with a salary sacrifice arrangement or other contractual obligation.

July

- (1) 6 July is the deadline for **registering/self-certifying share plans** which were **approved** by HMRC **before 6 April 2014**. There are **no second chances** to self-certify existing tax-qualifying plans. If the deadline is missed then it will not be possible to grant any more tax-qualifying awards under the plan. Although existing awards granted under Sharesave and SIP would keep their tax favoured status in those circumstances, existing CSOP options would lose their tax-qualifying status completely.
- (2) 6 July is the "initial" deadline for **registering/self-certifying new tax-qualifying plans** under which the first awards/grants were made in the 2014/2015 tax year. If this deadline is missed then it is possible to register the plan at a later date, but some or all (depending on the grant date) of the awards granted before the registration is made will not qualify for the tax favoured status.
- (3) 6 July is the deadline for **registering non-tax qualifying plans** under which reportable events occurred during the 2014/2015 tax year. (Registration is necessary in order that a share plans year end return can be filed online).
- (4) 6 July is the deadline for **submitting share plan year end returns** (both tax qualifying and non-tax qualifying for 2014/2015).

We recommend that registration of all plans takes place well in advance of 6 July 2015 to give time to comply with the new requirements, including submission of year end returns online.

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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