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Global Reward Update

UK annual share plan returns
Reporting of awards that are net settled

Key points to know

- HM Revenue & Customs ("HMRC") have recently published Employment Related Securities Bulletin 33 in which they set out how "net settled" share awards should be reported on the UK end of year share plan return.
- The changes are likely to mean that additional reporting will be required for companies that net settle awards. Companies will need to ensure that their systems are able to provide the additional information needed for the purposes of the share plan return.
- HMRC will also have greater visibility as to whether companies are net settling their employee share awards. Companies should carefully check they are calculating an appropriate UK Corporation Tax deduction in respect of net settled awards.

Background

In the UK, a statutory Corporation Tax (CT) deduction may be available where equity gains are realised by UK employees – for example on exercise of a share option or vesting of a conditional share award. There a number of conditions which need to be satisfied but these would generally be met for most types of award over listed company shares.

Assuming the conditions are satisfied, the CT deduction in respect of a UK domestic employee is based on the market value of the shares received by the employee less the price paid. This is also broadly the same as the amount on which an employee would normally be subject to income tax (assuming the award is not a tax advantaged award).

As discussed, however, in our GRU of February 2019, where awards are "net settled", the UK CT deduction that is available may be more limited. Further details can be found **here**.

HM Revenue & Customs Bulletin

HM Revenue & Customs ("HMRC") have recently published Employment Related Securities Bulletin 33 which can be found **here**. The bulletin sets out how net settled awards should be reported on the UK annual share plan return (formerly known as "Form 42"). In particular, the bulletin has stated that – assuming the award is regarded as a "securities option" for UK tax purposes - net settled awards should be reported on two rows of the return:

1. One row should show the net (after tax) number of shares delivered to the employee; and

2. The second row should report the cash 'delivered' to the employee but which is then immediately withheld and remitted to HMRC in settlement of the taxes due.

Deloitte view

As a result of the changes, it will become more apparent to HMRC which companies are net settling their share awards. Companies should ensure that they have taken into account awards which are net settled when calculating the UK CT deductions that are available in respect of employee equity awards. Companies may also wish to consider if steps could be taken to maintain the availability of a full corporation tax deduction, either through settling awards to UK employees under a “sell to cover” arrangement or through the use of a share “recycling” arrangement.

The changes are also likely to mean that, going forward, companies who net settle awards will need to comply with additional reporting requirements. Companies should therefore ensure that their systems are able to provide the information needed for timely completion of the year end return (the return for the 2019/2020 UK tax year is due by 6 July 2020).