

Minutes of meeting held on 9 December 2013
Place: HMRC, Euston Tower, London, NW1 3UQ
Attendees:

Name	Organisation
Graham Muir	Share Plan Lawyers Group
Philip Paur	ExPats Tax Forum
Alison Smith	Confederation of British Industry
Anne Croft	Chartered Institute of Taxation
Gabbi Stopp	ICSA Registrars Group/Employee Share Ownership Centre
Nicholas Stretch	Quoted Companies Alliance
Jane Page	HM Treasury
Joanne Gibson (Chair)	HMRC
Barry Roland	HMRC
John McLoughlin	HMRC
Anne Smith	HMRC
Susan Lambert	HMRC
Hasmukh Dodia	HMRC
Owen Price	HMRC

Apologies from Chas Roy-Chowdhury (ACCA), Malcolm Hurlston (Employee Share Ownership Centre), Graeme Nuttall (Employee Ownership Association & Cabinet Office Mutuals Ambassador), Rhiannon Jones (Confederation of British Industry) Nichola Ross Martin (Association of Tax Technicians), Richard Nelson (Cytec Solutions), Tim Plant (HMRC), Andrew Ellis (HMRC) Maureen Beresford (Department for Business, Innovation and Skills).

1. Introduction

The chair welcomed attendees. Minutes of the last meeting had been agreed and published on the HMRC website. Forum minutes, agenda and terms of reference are available at: <http://www.hmrc.gov.uk/consultations/ers-forum/index.htm>

A rundown was given of the action points from the last meeting.

Action Point 1 – Department for Business, Innovation and Skills (BIS) to consider points on employee shareholder status raised by ERS Forum members and provide responses.

Clarification has been supplied by BIS on questions raised by Forum members and this was included in the minutes of the last Forum.

Action Point 2 – HMRC to check the employee shareholder tax guidance for consistency with BIS guidance.

HMRC guidance excluded two additional points as they did not relate to taxation. Guidance will be updated to ensure consistency when it is absorbed into the Employment-Related Securities manual.

Action Point 3 – HMRC to circulate FATCA subgroup minutes (as well as an outline of the general principles).

Circulated on 18 November.

Action Point 4 – Forum members to gather evidence of scale of the CGT issues on internationally mobile employees and report back.

No further information has been provided to date. However, a member of the Forum confirmed that they had some evidence which they will share with HMRC.

2. Subgroup report backs

Valuations Subgroup (Barry Roland)

The Valuation subgroup met on 11 November 2013. There was a useful discussion around the proposal to change from the quarter up valuation method to using the market closing price. Forum members also asked HMRC's Share and Assets Valuations team to make it easier to communicate via email. HMRC confirmed that it will be updating and improving guidance on valuing restricted securities.

Understanding Your Business Subgroup (Anne Smith)

The Understanding Your Business subgroup met on 20 November 2013. HMRC provided an update on the self certification and online filing project and demonstrated dummy screens from the new online filing service. Members of the subgroup suggested other events HMRC may wish to attend to help publicise the new process as widely as possible.

Tax Advantaged Share Schemes Subgroup (Anne Smith)

The Tax Advantaged Share Schemes subgroup met on 5 December 2013. HMRC also demonstrated dummy screens from the new online filing service at this meeting and provided outlines of the data to be collected on the new online forms. Issues discussed included the use of email by HMRC to contact customers and the difficulty of recording an email address centrally - as email contacts can often change as individuals move within companies.

A Forum member asked for an update on **FATCA**. FATCA subgroup members are currently drafting guidance for further discussion, following the last meeting on 18 September 2013.

Action Point 1 – **FATCA subgroup to reconvene to consider draft guidance, once this has been completed.**

3. Employee Ownership update – Jane Page (HM Treasury)

HM Treasury (HMT) has consulted on tax measures to support employee ownership and is now publishing draft legislation on these measures. Ministers had originally pledged £50m for tax measures to support employee ownership but this would now be increased to £75m, which includes £5m for an increase in SIP and SAYE limits. The proposed measures include a CGT exemption for shareholders who sell shares to an employee ownership trust in certain circumstances. The trust must control at least 51 percent of shares for

relief to apply and relief will only be available on share disposals made to the trust within the tax year in which the threshold of 51 percent or more is passed. The trust must benefit all employees equally. Forum members sought clarification on this point and HMT confirmed this meant that if, for example, the trust were to pay a bonus to staff, it would need to pay the same percentage of salary to all current employees of the company.

Forum members asked whether the CGT exemption would apply where shares were exchanged for loan notes. HMRC/HMT agreed to take this point away and report back.

Action Point 2 – HMRC and HMT to consider the question further and provide a response to the Forum.

There would also be an income tax exemption up to £3,600 per year for certain payments made to employees of a company controlled by an employee ownership trust. There will be no reporting requirements on the exempt amount. This will be for trading companies, rather than investment companies. CT deduction would be available on these payments.

HMT intends to set up a small working group to examine the legislation and how companies will use it in practice. HMT extended an invitation to join the group to Forum members.

Action Point 3 – Forum members to provide HMRC with expressions of interest in joining the HMT working group.

4. Self-certification of employee share schemes & digital filing - update

HMRC delivered a presentation on the new online filing process. There will be an initial registration process for all schemes (or other ERS arrangements), as well as self certification declarations for SIP, SAYE and CSOP. The process will be accessed via PAYE Online Service.

Once a business has registered, it will be allocated a unique reference number for each of its schemes. A return will then be expected for each reference number. Questions were asked about where a company has more than one reference number. HMRC has endeavoured to retain as much flexibility as possible for employers and will issue detailed guidance on the options open to employers in the New Year.

Businesses will be able to enter information on the website directly, or where a large number of entries are required an attachment can be completed and submitted as part of the online form. The attachment will be in ODF format, which can be opened with Microsoft Excel. ODF is a versatile format, which will allow businesses to use a variety of software, including open source software such as LibreOffice. Businesses can complete this throughout the year and have it saved and ready to submit with their end of year return. The final document submitted to HMRC must also be in ODF format.

It is intended that when completing end of year returns using the online system, employers will only have to respond to questions relevant to entries made by them. The data to be reported had been reviewed so only

information that was needed by HMRC (or for statistical purposes where appropriate) would be required.

5. Policy Update

HMRC provided an update on the recent Autumn Statement announcements relating to share schemes and ERS. These included an increase in limits for SAYE and SIP schemes from 6 April 2014. The increase to the SIP limit will be delivered in Finance Bill, and the increase to SAYE limits will be enacted by secondary legislation.

Other draft Finance Bill 2014 clauses relating to ERS and share schemes would be also published. These will include those covering self certification of SIP, SAYE and CSOP and online filing. Other measures would clarify some areas of the legislation for tax advantaged schemes. In addition, there would be draft legislation to implement recommendations of the OTS in relation to unapproved share schemes (as well as a summary of consultation responses). HMRC gave an outline of the proposed changes in this area - including in relation to taxation of ERS awarded to internationally mobile employees, a new relief for certain ERS exchanges, new rules around nil-paid and partly-paid ERS, changes to corporation tax relief and modification of section 222 of ITEPA.

Forum members are encouraged to provide technical comments on the draft legislation.

HMRC confirmed that work is continuing on other OTS proposals relating to marketable securities and the employee shareholding vehicle, and that the OTS recommendation on the PAYE deadline for ERS payments will be considered once RTI has bedded in further.

Action Point 4 - HMRC to provide an update on RTI at a future Forum meeting.

6. Forum Issues Log – John McLoughlin

An update was given on the issues on the Forum issues log. No issue was removed and no issues added.

7. AOB and next meeting

A Forum member felt that there was a lack of comprehensive tax guidance on trusts for ERS and that difficulty arose because of the different teams in HMRC that deal with trust work. It was suggested that a subgroup could be set up to look at trust issues. HMRC requested details of issues to be explored at the next Forum meeting, and after that a view could be taken on how to take this forward.

Action Point 5 – Forum members to suggest issues relating to trusts to be discussed at the next meeting.

Forum members were also advised that BIS has issued a call for evidence on the issue of EBT perpetuities, following Graeme Nuttall's "One Year On Report" on employee ownership. The report can be found at:

<https://www.gov.uk/government/publications/nuttall-review-of-employee-ownership-one-year-on>. The call for evidence can be found at:
<https://www.gov.uk/government/consultations/amending-the-perpetuities-rule-and-simplifying-employee-ownership>

The closing date of the call for evidence is 19 February 2014 and Forum members are encouraged to participate.

There was no other business.

Next Forum meeting will be on 23 April 2014 at 13:00 at 100 Parliament Street. Further details about the venue and joining details will be provided closer to the date.

Minutes prepared by HMRC Savings and Share Schemes