

EXPLANATORY MEMORANDUM TO
THE EMPLOYEE SHARE SCHEMES (ELECTRONIC COMMUNICATION OF
RETURNS AND INFORMATION) REGULATIONS 2007

2007 No.792

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty. It contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 These regulations provide statutory authority to companies who wish to submit information electronically about employee share schemes events that occur in the tax year 2006-07 and later years.

2.2 The regulations specify the annual information returns employers will be able to submit electronically to HMRC, what constitutes a successful delivery of the information, who can send the information, how proof of information submitted electronically is established and how the requirement of signature is to be satisfied. Employers will be allowed to send information about the three approved (tax advantaged) share and share option plans, and information in relation to non-tax advantaged arrangements and events relating to employment-related shares and securities electronically.

3. Matters of special interest to the Select Committee on Statutory Instruments

None

4. Legislative Background

4.1 HMRC is introducing an online filing facility from the 6 April 2007 to enable companies to provide information about their employee share schemes electronically. Currently employers provide this statutory information in paper form. The online filing facility takes forward HMRC objectives on online services as outlined in the November 2006 document entitled, 'Delivering a new relationship with business: HMRC's plans to deliver a better service for business by 2010-11'. This document is published on the HMRC website:
www.hmrc.gov.uk/better-regulation/new-relationship.pdf

4.2 These regulations make provision about the use of approved methods of electronic communication for the purposes of delivery of information

under Chapters 1 - Employment-related securities, 6 - Share Incentive Plan, 7 – Save As You Earn, and 8 – Company Share Option Plan, of Part 7 of the Income Tax (Earnings and Pensions) Act 2003.

5. Extent

5.1 These regulations apply throughout the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 In the Regulatory Impact Assessment titled ‘Form 42 – Reporting of Employment-Related Securities’, published in November 2005 following formal consultation, HMRC announced a package of measures to reduce the burdens on business of completing annual returns about employee share schemes. One of the recommendations was to provide the facility to provide statutory annual share schemes information electronically – online filing. This recommendation also takes forward HMRC objectives on online services as outlined in the November 2006 document entitled ‘Delivering a new relationship with business: HMRC’s plans to deliver a better service for business by 2010–11’.

7.2 These regulations enable filing of share schemes and securities events that occur in the tax year 2006-07 and later years. HMRC have published guidance to help employers who wish to use the online filing facility. However, the facility is being provided through an existing online service dealing with PAYE returns and consequently familiarisation will be less burdensome.

7.3 Companies report on Form 42 events relating to employment-related securities to HMRC. Form 42 – Reporting of Employment-Related Securities Regulatory Impact Assessment is published on the HMRC website: www.hmrc.gov.uk/ria/index.htm#full

8. Impact

8.1 A regulatory appraisal has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen. Many medium and large companies (in excess of 50 employees) already store their employee share scheme information in an electronic format and the online filing facility will enable them to transfer that information electronically to HMRC. Those companies who wish to use the online filing service will

need enabling software to submit their information electronically but the cost of this software should not be significant.

- 8.2 HMRC published a Regulatory Impact Assessment on Form 42 which recommended that the facility should be made available to report transactions on-line via the Government Gateway from April 2007. The assessment is published on the HMRC website :
www.hmrc.gov.uk/shareschemes/form42.htm

9. Contact

- 9.1 Steve Lig at HMRC, Tel: 020 7147 2827 or e-mail:
steve.lig@hmrc.gsi.gov.uk can answer any queries regarding this instrument.