

# Employee Share Scheme (ESS) Reporting

In Australia we have an annual Employee Share Scheme reporting requirement. This is for companies that provide a beneficial interest in a share, a right or option to their employees under an employee share scheme. Companies are required to provide a statement to employees (ESS statement) and an annual report to the ATO (ESS annual report) following the end of the tax year. The ESS statement and ESS annual report provides details of any taxing points that have occurred during the tax year (ended 30 June). The ATO makes this available to employees for the preparation of their tax returns and will undertake data matching activity utilising this information.

You must provide an ESS statement to employees by 14 July and the ESS annual report to the ATO by 14 August. In order to determine whether you are required to complete ESS reporting you must first determine whether a taxing point has occurred during the year. Whether an ESS taxing point has occurred depends on a number of factors including the employee's ownership level, forfeiture conditions, sales restrictions, timeframe from issue, sales date, type of plan and whether a share or right / option was issued. It is important not to assume they are the same for all employees or all jurisdictions.

## How to lodge

You can complete your ESS reporting yourself or reach out to us to prepare the ESS statements and lodge the annual report on your behalf.

If completing your ESS reporting yourself:

Use the ATO's ESS online form via the Business Portal to lodge the ESS annual report. You need an ABN and less than 50 employees to report, to use this form. The system is limited on the number of plans and taxing points that can be considered. You will need to manually provide each individual with an ESS statement in an approved form.

There are a number of common challenges that companies may face in fulfilling their ESS reporting obligations.



Reporting for expatriate employees or internationally mobile employees is of particular difficulty as there may be reporting obligations in multiple jurisdictions for the same award. Additionally a common mistake in practice is awards made outside Australia to expatriate/mobile employees are overlooked for Australian reporting purposes. Employers are required to indicate whether the discount is foreign sourced.



It is important to remember that termination of employment leads to a taxing point. This would usually occur when the terminated employee retains their ESS upon termination of employment (commonly referred to as 'good leavers') and where no earlier taxing point has occurred. For many companies, terminated employees are easily overlooked.

We assist all types of organisations with their ESS reporting obligations, foreign and local, listed and private. Utilising our bespoke software, we prepare and lodge the ESS annual report and provide the employee statements. We help our clients manage their ESS risk both locally and internationally, removing the burden.

# Contact us



**Peter Hills**

Partner & Head of Tax Perth

**T** +61 8 9480 2126

**E** [Peter.hills@au.gt.com](mailto:Peter.hills@au.gt.com)



**Thomas Isbell**

Partner – Remuneration Taxes

**T** +61 2 9286 5689

**E** [Thomas.Isbell@au.gt.com](mailto:Thomas.Isbell@au.gt.com)



**Anna O'Brien**

Principal – National Specialist Tax

**T** +61 8 9480 2124

**E** [Anna.obrien@au.gt.com](mailto:Anna.obrien@au.gt.com)



**George Bendall**

Director – National Specialist Tax

**T** +61 7 3222 0386

**E** [George.bendall@au.gt.com](mailto:George.bendall@au.gt.com)

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