Employee share schemes

How employee share schemes operate and the special tax treatment which may apply to them.

ESS basics

Understand the basic terms we use and special tax treatments for employee share schemes (ESS).

Employers

There are rules employers must meet if providing employee share schemes (ESS) interests to employees at a discount.

Employees

What employees need to know about employee share schemes (ESS).

In detail

Detailed information about employee share schemes.

Previous years

Information from previous years relating to employee share schemes.

QC 34343

ESS basics

Understand the basic terms we use and special tax treatments for employee share schemes (ESS).

Last updated 7 May 2020

If employee share schemes (ESS) interests are granted at a discount, special tax treatment may apply (as long as the eligibility conditions are met). It is important to know how ESS works so you understand the eligibility conditions that apply to you.

Changes to the tax treatment of ESS took effect on 1 July 2015.

Find out about

- Terms we use
- Market value
- Key ESS changes in detail

See also

- Concessions for start-up companies
- Changes to existing rules

Terms we use

Use these terms we use to help you understand employee share schemes (ESS).

Market value

To calculate the discount on employee share scheme (ESS) interests, you need to determine their market value.

QC 47619

Terms we use

Use these terms we use to help you understand employee share schemes (ESS).

Last updated 7 May 2020

We frequently use these terms across the employee share scheme (ESS) information. Use these terms to help you understand ESS.

ESS terms we use

Term	Definition
Aggregated turnover	Aggregated turnover is your annual turnover plus the annual turnovers of any business entities that are your affiliates or that are connected with you.
Associates	Associates of an individual include people and entities such as relatives, or closely connected companies or trustees of a trust (other than the trustee of an employee share trust). For example, a partner in a partnership is an associate of the partnership and an individual's spouse is an associate of the individual. An individual may also be an associate of a self-managed super fund in which they are a member or of a family trust of which they are a beneficiary.
Capital gains tax	Capital gains tax (CGT) is the tax paid on a capital gain. It is not a separate tax, just part of a taxpayer’s income tax. The most common way to make a capital gain (or capital loss) is by selling or disposing of assets such as real estate, shares or managed fund investments.

Cost base	The cost base of an asset is generally what it costs you. It is made up of five elements: • the money you paid or property you gave for the asset • the incidental costs of acquiring or selling it – for example, brokerage and stamp duty) • the costs of owning it (generally this will not apply to shares or units because you will usually have claimed or be entitled to claim these costs as tax deductions) • the costs associated with increasing or preserving its value, or with installing or moving it • the cost to you to preserve or defend your title or rights to it – for example, if you paid a call on shares. The cost base for a share or unit may need to be reduced by the amount of any non-assessable payment you receive from the company or fund. Cost base is also explained in Subdivision 110-A of *the Income Tax Assessment Act 1997*.
Discount	If an employee acquires ESS interests under a taxed-upfront scheme, the discount is the market value of the ESS interests at acquisition, reduced by the amount paid to acquire the interests. If an employee acquires ESS interests under a tax-deferred scheme, the discount is the market value of the ESS interests at the deferred taxing point, reduced by the cost base of the interests.
Employees	Employees can include current, past or prospective employees and their associates. For the purposes of the ESS rules, directors and independent

	contractors are also treated as employees.
Employee share scheme	An employee share scheme (ESS) is a scheme under which ESS interests in a company are provided to its employees (including current, past or prospective employees and their associates) in relation to their employment.
ESS annual report	The report that an employer provides to us (the ATO) with information on discounts that employees or their associates have received on ESS interests either directly or through an employee share trust.
ESS interests	Shares, stapled securities, or rights (including options) to acquire shares or stapled securities
ESS statement	The statement that an employer gives an employee with information about any discounts the employee or their associates have received on ESS interests. It contains information needed to complete the employee's tax return.
Exercise the right	This is a term used in the industry that means to use or convert the right you have to a share in the company.
Indeterminate right	A right to acquire at a future time either: • shares or cash (at the discretion of the employer) • a number of shares, where that number cannot be determined at the time of acquisition of the right but will be determined at a later time.
Option	An option is a form of right that gives the holder the right, but not the obligation, to buy a share in the

	company for an agreed price (the exercise price) by exercising their option during a certain time period.
Previous law	Division 13A of Part III of the *Income Tax Assessment Act 1936*, which provided for the taxation treatment of shares or rights acquired under employee share schemes before 1 July 2009.
Real risk of forfeiture	An ESS interest acquired by an employee is at real risk of forfeiture if a reasonable person would consider that there is a real risk that the employee may forfeit or lose the ESS interest, other than by intentionally taking no action to realise the benefit. The meaning of 'real' is something more than a mere possibility.
Reportable fringe benefits	Benefits an employer gives their employee because of their employment (other than salary and wages) are included as fringe benefits, even if the employer actually provides them to an associate of the employee. The **grossed-up** taxable value of those benefits that the employer records on their employee's payment summary or income statement for the income year that corresponds to the employer's FBT year is their reportable fringe benefits amount. The reportable fringe benefits total is the sum of the reportable fringe benefits amounts from different employers.
Reportable superannuation contributions	Your reportable superannuation contributions are the sum of the following: • any personal deductible contributions you may have made • any reportable employer super contributions your employer may make for you.

Salary sacrifice arrangements	An arrangement where an ESS interest is provided either: • because the employee agreed to acquire the ESS interest in return for a reduction in salary or wages that would not have happened apart from the agreement • as part of the employee's remuneration package, in circumstances when it is reasonable to conclude that the employee's salary or wages would be greater if the ESS interest was not part of that package. ESS interests acquired under salary sacrifice arrangements are treated as acquired at a discount. The amount of the reduction in salary or wages under the salary sacrifice arrangement does not form part of the cost base of the ESS interests.
Start-up company	For ESS purposes, a company is a start-up for an income year if, at the end of its most recent income year before the ESS interest was acquired in it: • the company and any subsidiaries or its holding company and any subsidiaries – were not listed on a stock exchange – had been incorporated for less than 10 years • the company's aggregated turnover did not exceed $50 million.
Start-up concession	A concession available to an employee with ESS interests in a start-up company provided that

	- the scheme meets certain conditions - the employer (which may or may not be the company issuing the ESS interest) is an Australian resident company - the employee meets the 10% ownership and voting rights test - the discount on an ESS interest that is a share is no more than 15% of its market value at the time it is acquired - the amount payable to exercise an ESS interest that is a right is greater than or equal to the market value of an ordinary share in the company when the right is acquired.
The 5% ownership and voting rights test	This test applies to all ESS concessional schemes where the ESS interests were acquired before 1 July 2015. After acquiring their ESS interests, the employee must not either: - hold more than 5% ownership of the company - control more than 5% of the voting rights in the company. The employee’s ownership and voting rights include the ownership and ownership and voting rights of their associates. This test does not include the ownership of shares or the voting rights the employee would have if they were to exercise any ESS interests they hold that are rights.
The 10% ownership and voting rights test	This test applies to all ESS concessional schemes where the ESS interests were acquired after 30 June 2015. After acquiring their ESS

	interests, the employee must not either: • hold more than 10% ownership of the company • control more than 10% of the voting rights in the company. The employee's ownership and voting rights include the: • ownership and voting rights of their associates • ownership of shares and the voting rights they would have if they were to exercise any ESS interests they hold that are rights.
Taxable income	Assessable income less allowable deductions.
Taxable income after adjustments	An employee's taxable income after adjustments for the year is the sum of their: • taxable income (including the total amount of all ESS discounts) • reportable fringe benefits total (if any) • reportable superannuation contributions (if any) • total net investment loss.
Total net investment loss	An employee's total net investment loss is the sum of the amount that the employee's: • deductions from financial investments are greater than their income from those investments for the income year • rental property deductions are greater than their rental property income, for the income year.

QC 47620

Market value

To calculate the discount on employee share scheme (ESS) interests, you need to determine their market value.

Last updated 7 May 2020

To calculate the discount on ESS interests, you first need to determine their market value.

The term 'market value' takes on its ordinary meaning. The discount received is worked out based on the market value of the ESS interests.

Market value of unlisted rights

Use our calculator to work out the value of unlisted rights and the discount received.

ESS calculator

See also

- ESS – Market value of listed shares and stapled securities
- ESS – Market value of unlisted rights to acquire listed shares and stapled securities
- Market valuation for tax purposes

QC 47621

Employers

There are rules employers must meet if providing employee share schemes (ESS) interests to employees at a discount.

Last updated 7 May 2020

On this page

What are employee share schemes?

Employee share schemes (ESS) are generally plans that have a life span of two to 15 years. They are specifically aimed at creating ownership of company shares by employees. ESS is available to all companies, regardless of if they are publicly listed on the stock exchange or privately owned.

Tax concessions can apply to ESS interests if you and your employee have followed special tax rules. To gain the benefit of tax concessions, the plan has to be set up in such a way to ensure that the conditions of Division 83A of the *Income Tax Assessment Act* 1997 are met.

If you provide ESS to your employees at a discount, you must meet specific obligations. If ESS interests were not acquired at a discount, the ESS tax rules do not apply. However, other tax obligations may still apply.

Your obligations will depend on when the employee acquired the ESS interests as there are separate rules for shares acquired before 1 July 2009.

See also

- Types of ESS
- Indeterminate rights
- Taxation generally for ESS
- ESS interests acquired before 1 July 2009

Annual reporting

You must provide an ESS statement to your employee by 14 July after the end of each financial year.

You must lodge your ESS annual report to us electronically, by 14 August after the end of each financial year. To lodge your report electronically, you must create your reports on software compatible with our systems.

See also

- Employer reporting requirements
- Employer obligations
- Calculating the discount

Contact us

If you wish to discuss your circumstances, phone us on **13 28 61**.

Types of ESS

There are many types of employee share schemes (ESS) and the type of scheme generally determines the tax treatment.

Indeterminate rights

Your employee's entitlement to shares may be confirmed at a later time.

Calculating the discount

You need to work out the discount amount to include on your employee's ESS statement.

ESS interests acquired before 1 July 2009

Current ESS rules apply to shares or rights acquired before 1 July 2009. Transitional arrangements apply to some ESS interests

Employer obligations

Employers have reporting obligations and must withhold tax if no TFN is provided.

QC 47623

Types of ESS

There are many types of employee share schemes (ESS) and the type of scheme generally determines the tax treatment.

Last updated 21 December 2015

There are many types of employee share schemes (ESS). Generally, the type of scheme determines the tax treatment that applies.

The tax treatment can be either:

- non-concessional – this means the employee or scheme does not meet the conditions for special tax treatment to apply
- concessional – this means the employee and scheme meet the conditions for concessional tax treatment to apply.

An employee can be offered ESS interests under as many different types of schemes as the employer would like to offer them.

See also

- Employer obligations

Non-concessional ESS

Some employee share schemes (ESS) don't qualify for concessional tax treatment. These are known as non-concessional ESS.

Concessional ESS

Learn when employee share schemes allow concessional tax treatment for your employees.

QC 47624

Non-concessional ESS

Some employee share schemes (ESS) don't qualify for concessional tax treatment. These are known as non-concessional ESS.

Last updated 7 May 2020

If you provide your employees with a discount on ESS interests but either the scheme or the employee do not meet the conditions for concessional tax treatment, your employee will be taxed on the discount in the year they receive the ESS interests.

The ESS interests are treated as if they were provided from an upfront scheme, and are not eligible for the reduction.

Find out about

- Concessional ESS

QC 47625

Concessional ESS

Learn when employee share schemes allow concessional tax treatment for your employees.

Last updated 7 May 2020

On this page

Most employee share schemes (ESS) allow your employees concessional tax treatment if they receive their ESS interests at a discount and meet certain conditions.

Eligible employees

To qualify for concessional tax treatment the following general conditions must be met:

- the ESS interests you provide to your employees must be in your company or your holding company
- when your employee acquires the interest, all ESS interests available for acquisition under the scheme must relate to ordinary shares
- immediately after acquiring the ESS interests, your employee (and their associates) must meet the
  - 5% ownership and voting rights test (ESS interests acquired before 1 July 2015)
  - 10% ownership and voting rights test (ESS interests acquired after 30 June 2015).

Ineligible employees

Your employees will **not** be eligible for concessional tax treatment if **all** of the following apply:

- the main business of the company in which they acquired the ESS interests is the acquisition, sale or holding of shares, securities or other investments (directly or indirectly)
- they are employed by both your company **and** a subsidiary of your company or a holding company of your company, or a subsidiary of

the holding company.

Specific conditions

Once the general conditions are met, the conditions that are specific to each concession must also be met.

Find out about:

- Start-up concession (interests acquired after 30 June 2015)
- Taxed-upfront scheme – $1,000 reduction
- Tax-deferred schemes

Start-up concession (interests acquired after 30 June 2015)

In addition to the general conditions, your employee must meet specific conditions for the start-up concession.

Taxed-upfront scheme - $1,000 reduction

Employees may be eligible to reduce the discount amount in their taxable income by up to $1,000.

Tax-deferred schemes

Employees may be eligible to defer paying tax on their ESS interests until the deferred taxing point.

QC 47626

Start-up concession (interests acquired after 30 June 2015)

In addition to the general conditions, your employee must meet specific conditions for the start-up concession.

Last updated 21 December 2015

Under the start-up concession, an employee can reduce the taxable discount income relating to their ESS interests to nil. This concession is only available for ESS interests acquired after 30 June 2015.

To be eligible the following conditions must be met:

- the ESS interests you provide are in a start-up company
- your company (which may not be the company issuing the ESS interests) must be an Australian resident taxpayer
- for an ESS interest that is a share – the discount must be no more than 15% of its market value when you provide it
- for an ESS interest that is a right – the amount that must be paid to exercise the right must be greater than or equal to the market value of an ordinary share in the company when you provide the ESS interest
- the scheme is operated so that employees must hold the ESS interests (or any share acquired as a result of exercising the interest) for a minimum of either
  - three years
  - until your employee ceases employment.

Reducing the minimum holding period

You can make a written request to reduce the minimum holding period. We can allow your request if:

- the intention of the scheme was that all ESS interests acquired were to be held for three years after acquisition
- at the earlier time that we allow, all membership interests in the company were disposed of under an arrangement (for example, as a result of a 100% takeover).

Availability of other schemes

Where an employee acquires ESS interests under the start-up concession, they are also able to acquire ESS interests under another concessional scheme or a non-concessional scheme, if it is offered by their employer.

Example: Start-up company (ESS interests acquired after 30 June 2015)

Ludo's Lounges Pty Ltd is an Australian resident company that has been incorporated for three years and is not listed on any stock exchange. Ludo's Lounges had an annual turnover of $4.2 million in the most recent income year. It does not have a holding company or any subsidiaries but it does have one affiliate, House Upholstery Pty Ltd. House Upholstery had an annual turnover of $1.7 million. Therefore, Ludo's Lounges' aggregated turnover for the 2015 income year was $5.9 million ($4.2 million plus $1.7 million).

As Ludo's Lounges is not listed on any stock exchange, was incorporated less than 10 years before the end of their most recent income year and has an aggregated turnover for that year of less than $50 million, it is a start-up company.

An employee, Sarah, is provided with 2,500 shares in Ludo's Lounges under an ESS that meets the general conditions for concessional tax treatment.

The market value of each Ludo's Lounges share when Sarah acquires them is $1.00. Sarah pays $0.85 per share, which means she has acquired them at a 15% discount ($1.00 – $0.85 = $0.15). Therefore, Sarah's ESS interests will qualify for the start-up concession if she meets her personal conditions. After acquiring the shares, Sarah holds a 1.2% interest in the shareholding and voting rights of the company. Ludo's Lounges advises Sarah that all of the conditions for the start-up concession have been met and provides her with an ESS statement.

Sarah does not need to report an ESS discount amount in relation to the acquisition of the shares in the income year that she acquired the shares. However, under the capital gains tax rules, she will need to report her capital gain or capital loss when she later sells the shares.

QC 47627

Taxed-upfront scheme – $1,000 reduction

Employees may be eligible to reduce the discount amount in their taxable income by up to $1,000.

Last updated 21 December 2015

Under this concession, your employees can reduce the discount amount that must be included in their taxable income by up to $1,000 if:

- the employee meets an income test
- both the ESS and the employee meet the specific conditions required.

Employee income test

To be entitled to the $1,000 reduction, your employee's taxable income (after adjustments) for the income year must be $180,000 or less. This is up to the employee to determine; the employer's role is to advise them if the scheme meets the other eligibility criteria.

Specific conditions required

In addition to the general conditions, the ESS must meet the following specific conditions to be eligible for the $1,000 reduction:

- your employee must not have a real risk of forfeiting the ESS interest under the conditions of the scheme (see terms for explanation of real risk of forfeiting)
- the scheme must be offered on a non-discriminatory basis to at least 75% of your Australian-resident permanent employees with at least three years' service
- the scheme must be operated so that your employees must hold their ESS interests (or any share acquired as a result of exercising the interest)
  - for a minimum of three years
  - until they end that employment

ESS interests acquired after 2015

For ESS interests acquired after 30 June 2015, you can make a written request to reduce the minimum holding period. We can allow your request if:

- the intention of the scheme was that all ESS interests acquired were to be held for three years after acquisition
- at the earlier time that we allow, all membership interests in the company were disposed of under an arrangement (for example, as a result of a 100% takeover).

Example: Taxed-upfront scheme – eligible for reduction

Core Bank Ltd provides its employee Matt 600 shares under an ESS on 4 August 2015.

The total market value of the shares is $3,600. Matt pays Core Bank Ltd $1,200 to purchase the shares, acquiring the shares for a discount of $2,400 ($3,600 less $1,200).

On 7 July 2016 Core Bank Ltd, gives Matt an ESS statement, with an amount of $2,400 at label D "Discount from taxed upfront schemes – eligible for reduction".

Core Bank Ltd lodges an ESS annual report showing all reportable ESS data for their employees with us by 14 August 2016.

As Core Bank Ltd will not know Matt's taxable income after adjustments, they report the discount as $2,400, ignoring the $1,000 concession.

QC 47628

Tax-deferred schemes

Employees may be eligible to defer paying tax on their ESS interests until the deferred taxing point.

Last updated 1 April 2022

On this page

A tax-deferred scheme allows an employee to defer paying tax in relation to their employee share schemes (ESS) interests until the income year in which the deferred taxing point occurs, instead of paying tax in the year the interests are acquired. To be able to defer tax, both the scheme and the employee must meet the general conditions as well as the specific conditions for each type of tax-deferred scheme.

Deferred taxing point

If you give employees ESS interests under a tax-deferred scheme, they will be assessed in the year that the deferred taxing point occurs. The amount assessed will be the market value of the ESS interests at the deferred taxing point, reduced by the cost base.

Shares

The deferred taxing point for a share or stapled security is the earliest of the following:

- when there is no real risk of forfeiture and the scheme no longer genuinely restricts disposal of the share
- when your employee ceases the employment in respect of which they acquired the share (employment ceasing on or after 1 July 2022 will no longer be a deferred taxing point)
- 15 years after your employee acquired the share (or seven years for ESS interests acquired before 1 July 2015).

Rights

The deferred taxing point for a right is the earliest of the following:

- when there is no real risk of forfeiting the right and the scheme no longer genuinely restricts disposal of the right
- when your employee ceases the employment in respect of which they acquired the right (employment ceasing on or after 1 July 2022 will no longer be a deferred taxing point)
- for ESS interests acquired after 30 June 2015
  - when your employee exercises the right, there is no real risk of forfeiting the resulting share and the scheme no longer genuinely restricts disposal of that share
  - 15 years after your employee acquired the right
- for ESS interests acquired before 1 July 2015
  - when there is no real risk of forfeiting the right or underlying share, and the scheme no longer genuinely restricts exercise of the right or disposal of the resulting share
  - 7 years after your employee acquired the right.

30-day rule – it can change the deferred taxing point

If your employee disposes of their ESS interest (or the share acquired on exercise of the right) within 30 days after the deferred taxing point, the deferred taxing point becomes the date of that disposal (this is called the 30-day rule).

For example, a deferred taxing point arises on 10 March 2016 and the employee disposes of the ESS interest on 29 March 2016. Due to the sale being within 30 days, the deferred taxing point is now 29 March 2016.

You must take account of the 30-day rule when you are aware of a disposal.

In some situations, this means that the 30-day rule will move the deferred taxing point from one income year into the next. In that case, when fulfilling reporting obligations:

- if you become aware of the disposal **before** issuing the *ESS statement* to your employee for the earlier year, you must update the *ESS statement* for the earlier year so that it does not show a discount for those ESS interests in that year (but include the discount on the ESS statement for the later year)
- if you become aware of the disposal **after** issuing the *ESS statement* to your employee for the earlier year, you must give an amended *ESS statement* to your employee to remove the discount for those ESS interests in that earlier year, and you will need to show the discount in the *ESS statement* for the later year
- if you have already sent the *ESS annual report* to us, you will need to amend that report for the earlier year, to ensure that we and your employee have the same information.

For more information about the 30 day rule, see Employer reporting requirements for employee share schemes.

Salary sacrifice (tax-deferred scheme)

Employees who have acquired ESS interests under salary-sacrifice arrangements are taxed in the income year the deferred taxing point occurs.

In addition to the general conditions the ESS and employee must meet, the following specific conditions must also be met:

- the ESS interests are shares (or stapled securities) that are acquired under a salary-sacrifice arrangement with you (their employer) or your holding company
- when you provide the shares (or stapled securities), the discount must equal the market value of the shares (or stapled securities)
- the rules governing the scheme (or the offer documentation) must expressly state that the deferred tax arrangement applies to the scheme
- at least 75% of your Australian-resident permanent employees with at least 3 years' service are, or have been, entitled to acquire ESS interests in your company or your holding company under an ESS
- any rights acquired under the scheme must be subject to a real risk of forfeiture.

For the tax to be deferred, your employee must not receive more than $5,000 worth of shares (or stapled securities) during the year under salary-sacrifice arrangements from you (their employer) or your holding company.

Real risk of forfeiture (tax-deferred scheme)

Some schemes include a risk that the employee's ESS interests will be forfeited.

Employees who have acquired ESS interests under such a scheme are taxed in the income year that the deferred taxing point occurs, provided both they and the scheme meet the general conditions, and the following specific conditions:

- your employee must have a **real risk of forfeiting** their ESS interests under the conditions of the scheme
- if the ESS interests are shares, at least 75% of your Australian-resident permanent employees with at least 3 years' service are, or have been, entitled to acquire ESS interests in you or your holding company under an ESS.

Disposal restrictions (tax-deferred schemes)

From 1 July 2015, some schemes that genuinely restrict disposal of ESS interests that are rights are treated as tax-deferred schemes.

Employees who acquire rights under these schemes are taxed in the income year in which the deferred taxing point occurs, if they and the scheme meet the general conditions and both:

- the scheme rules restrict immediate disposal of the ESS interest (that is, employees are not permitted to dispose of rights as soon as they acquire them)
- the offer documentation or the scheme rules state specifically that the scheme is a tax-deferred scheme.

QC 47629

Indeterminate rights

Your employee's entitlement to shares may be confirmed at a later time.

Last updated 21 December 2015

At the time of acquisition of a right by your employee, the entitlement to a share or a specific number of shares could be uncertain. For example, you could provide your employee with a right to acquire at a future time:

- either shares or cash (whichever you decide)
- shares with a specified total value, rather than a specified number of shares
- an indeterminate number of shares, that is, the exact number of shares is not specified at the time the employee acquires the right.

The law applies as if that right had always been rights to acquire those shares from the time the original right was acquired, if and when it becomes clear that the right will result in the receipt of:

- shares, if previously it could have been shares or cash
- a definite number of shares, if previously it was shares to a total value or an unspecified number of shares.

Example: Indeterminate rights

Anthony receives shares in an upfront scheme - eligible for reduction with a discount of $2,400 in the 2011 income year and reports this discount in his 2011 tax return.

On 14 April 2011, Anthony is also granted a right to an employment benefit by his employer Western Housing Ltd. Anthony pays no consideration for the right.

The right is not subject to a real risk of forfeiture.

In three years Western Housing Ltd will determine whether to meet the right with cash or Western Housing Ltd shares.

On 14 April 2014, Western Housing Ltd decides to give Anthony 1,000 shares. The right that Anthony acquired in 2011 is now treated as if it had always been rights to acquire 1,000 shares. Those rights were acquired under a taxed-upfront scheme not eligible for reduction.

The market value of the rights on 14 April 2011 was $4,000. As Anthony paid no consideration for the rights, the discount on the rights is $4,000.

Within 30 days of Western Housing Ltd determining that Anthony would receive 1,000 shares, they must give Anthony an amended *ESS statement* for 2010–11. On 10 May 2014, Western Housing Ltd gives Anthony an amended *ESS statement* with an amount of $2,400 at label D 'Discount from taxed upfront schemes – eligible for reduction' and an amount of $4,000 at label E 'Discount from taxed upfront schemes - not eligible for reduction'.

Western Housing Ltd also lodges an amended *ESS annual report* for 2010–11 with us on 10 May 2014.

Anthony must amend his 2011 tax return to include the discount income.

See also:

- Employer reporting requirements for employee share schemes
- ESS: Indeterminate rights

QC 47630

Calculating the discount

You need to work out the discount amount to include on your employee's ESS statement.

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Start-up concession

For ESS interests that are shares acquired under a start-up concession, you will need to calculate the discount to ensure that the eligibility criteria for the concession have been met. The discount must be no more than 15% of the share's market value when the employee acquires it. If all criteria for the concession are met, the discount is not taxable and the employee does not need to report the discount amount to us.

For ESS interests that are rights acquired under a start-up concession, you will need to ensure that the eligibility criteria for the concession have been met by checking that the amount payable to exercise the ESS interest is greater than or equal to the market value of an ordinary share in the company when the ESS interest is acquired. If all criteria for the concession are met, the employee does not need to report the discount amount to us.

Taxed-upfront scheme

For ESS interests acquired under taxed-upfront schemes, you will need to calculate the discount (market value of the ESS interests when they are acquired less any consideration paid or payable by your employees, for the interests) and then include this amount on the statements you provide to us and your employees.

Tax-deferred scheme

For ESS interests acquired under tax-deferred schemes you will need to determine the amount to be included in your employee's assessable income in the income year that the deferred taxing point occurs. The amount to be included is the market value of the ESS interest at the deferred taxing point, reduced by the cost base of the ESS interest (the cost base may include other expenses, such as brokerage fees).

When calculating the discount amount at the deferred taxing point, you may not know all the elements of the cost base. In that case you may reasonably estimate costs when calculating the discount.

QC 47631

Rules for ESS interests acquired before 1 July 2009

Current ESS rules apply to shares or rights acquired before 1 July 2009. Transitional arrangements apply to some ESS interests acquired before 1 July 2009.

Last updated 7 May 2020

On this page

The current employee share scheme (ESS) rules apply to all ESS interests acquired from 1 July 2009.

The current rules contain transitional arrangements that apply to some ESS interests acquired before 1 July 2009. The transitional arrangements apply to calculating the amount of the discount to be included in assessable income for a transitioned ESS interest.

There were no employer reporting obligations under the previous law. However, you will need to know how the transitional arrangements apply to shares and rights provided under the previous law to fulfil your reporting obligations under the rule changes.

When the current ESS rules do not apply

The ESS rule changes **do not** apply to an employee who acquired ESS interests before 1 July 2009 if they were:

- non-qualifying shares or rights
- qualifying shares or rights, and your employee elected to be taxed upfront under the previous rules
- qualifying shares or rights, and a cessation time had happened to the shares or rights before 1 July 2009.

In these cases, the previous law will continue to apply.

Example: No requirement to report

Adrian acquires 750 non-qualifying rights from his employer, Begone Ltd, on 27 September 2007, under an ESS. As the rights are non-qualifying he is taxed in the year of acquisition.

Begone Ltd is not required to report on these rights, even if they are exercised after 30 June 2009.

When the current ESS rules do apply

The changes apply to ESS interests that are qualifying shares or rights your employee acquired before 1 July 2009 if:

- your employee did not elect to be taxed upfront under the previous rules
- a cessation time did not happen to the shares or rights before 1 July 2009.

Example: Requirement to report under transitional arrangements

Sam acquires 2,000 qualifying options from her employer, Aztec Ltd, on 12 May 2008, under an ESS. She does not elect to be taxed upfront. On 8 April 2012 Sam, who is still employed by Aztec Ltd exercises her options.

Under the transitional arrangements, Aztec Ltd must report on these options. They are required to report on these options even if Sam elected to be taxed upfront.

Find out about:

- Deferred taxing point
- Reporting requirement for pre-1 July 2009 interests
- No TFN withholding
- Foreign employment
- Other transitional rules
- Indeterminate rights

Deferred taxing point

Transitioned ESS interests will have a deferred taxing point that is determined by reference to the cessation time worked out using the previous law. The market value of the ESS interests at the deferred taxing point is worked out using the current law.

The 30-day rule will also apply; therefore, if your employee disposes of their ESS interest (or the share acquired on exercise of the right) within 30 days after the deferred taxing point, the deferred taxing point becomes the date of that disposal.

The latest possible cessation time for transitioned ESS interests was 30 June 2019. This means there will be no income reportable on these interests in the 2019–20 income year and onwards.

Example: Options acquired before 1 July 2009 and transitioned into the current rules

On 18 May 2007, Hillary acquires 10,000 options in her employer, Diesel Ltd, under an ESS. The options are qualifying rights and Hillary does not elect to be taxed upfront. On 10 March 2015, she exercises her options. That is the cessation time under the previous law.

Under the transitional arrangements, the deferred taxing point for Hillary's interests is the cessation time worked out under the previous law. Therefore, 10 March 2015 is the deferred taxing point for her options.

Reporting requirement for pre-1 July 2009 interests

The current reporting rules apply to all qualifying shares or rights acquired before 1 July 2009 if no cessation time had occurred before 1 July 2009, whether or not your employee made an election to be taxed upfront. This means that you must report the discount on ESS interests acquired before 1 July 2009 if a cessation time occurred during the income year, whether or not your employee made an election.

As the latest possible deferred taxing point was 30 June 2019, no amounts are reportable in the 2019–20 income year or onwards, in relation to these interests.

See also:

- ESS interests with a taxing point before 1 July 2009

No TFN withholding

You do not need to withhold tax if your employee has not given you their TFN or their ABN and they have a deferred taxing point for shares or rights that they acquired before 1 July 2009.

Foreign employment

If your employee has been employed outside Australia and has a deferred taxing point for shares or rights they acquired before 1 July 2009, they don't need to include the amount of the discount in their assessable income relating to foreign employment.

Other transitional rules

The law changes also modified the way the rules apply to:

- the acquisition date of some shares or rights for certain capital gains tax (CGT) purposes
- certain shares or rights, for the meaning of an employment termination payment.

Indeterminate rights

The current ESS rules apply to rights acquired before 1 July 2009 that became rights to qualifying shares after 30 June 2009. If a possible cessation time happens to those rights after 30 June 2009, (whether or not your employee has made an election), you must provide an *ESS statement* to your employee and an *ESS annual report* to us for the income year that the possible cessation time occurs in.

There is no reporting requirement if the rights are not qualifying or if the cessation time for the rights occurred before 1 July 2009.

See also:

- Employers – Indeterminate rights

QC 47632

Employer obligations

Employers have reporting obligations and must withhold tax if no TFN is provided.

Last updated 13 September 2019

If you provide ESS interests to your employees or to their associates, reporting and withholding obligations apply.

See also

- Employer reporting requirements

TFN withholding (ESS)

Withholding will apply if:

- you provide a discounted ESS interest to your employee
- that employee has not given you their TFN or ABN by the end of the relevant income year.

If your employee has given you a TFN declaration for their employment, no withholding is payable.

Withholding is calculated on the discount your employee should include in their assessable income under the ESS rules.

If you have engaged the services of a third party to administer your ESS, you may give them your employee's TFN. In these circumstances, no withholding is payable.

Rate of withholding

The rate of withholding is the highest individual marginal tax rate plus the Medicare levy (and for the 2015–2017 income years, the Temporary Budget Repair levy).

Under no circumstances can you withhold in excess of this rate. Nor should you withhold amounts when your employee has provided you their TFN.

If your employee wants additional amounts withheld, they can only do so from salary or wage payments you make to them.

Pay the amounts withheld

You must pay amounts you withheld to us within 21 days after the end of the income year your employee is taxed on the discount.

For taxed-upfront schemes, this is the year your employee acquired the ESS interests. For tax-deferred schemes, this is the year the deferred taxing point arises.

If you pay amounts you withheld to us, you can recover these amounts from your employee. You can do this by offsetting the amount of withholding paid against any amount you owe to your employee, such as salary and wage income.

Employers have reporting obligations and must withhold tax if no TFN is provided. The withholding rate where no TFN is provided is 47% (from 1 July 2017).

Find out about:

- Deduction by employers
- ESS interests provided to an employee's associates
- Share trusts
- Reporting
- ESS legal requirements
- Taxation generally for ESS

Deduction by employers

A limited deduction is available if the employee share scheme is eligible for the $1,000 reduction.

ESS interests provided to an employee's associates

ESS interests provided to an employee's associates are treated as if provided to the employee.

Share trusts

If you provide shares to your employees through a trust, you still have reporting obligations.

Reporting

As an employer, you have ESS reporting obligations to your employees.

ESS legal requirements

There are many legal and regulatory requirements to consider in implementing an employee share scheme (ESS).

Taxation generally for ESS

The tax considerations in implementing an employee share scheme (ESS).

QC 47633

Deduction by employers

A limited deduction is available if the employee share scheme is eligible for the $1,000 reduction.

Last updated 21 December 2015

Generally, there is no deduction available for you if you issue ESS interests to your employees. However, the ESS rules provide you with a limited specific deduction.

If you provide ESS interests under an upfront scheme that meets the requirements for eligibility for the $1,000 reduction, a deduction equal to the amount of the upfront concession is available to you up to a maximum of $1,000.

The deduction is available regardless of whether the employee receiving the ESS interests has met the income test.

A general deduction may be available if ESS interests are provided through a share trust.

See also:

- Share trusts

QC 47634

ESS interests provided to an employee's associates

ESS interests provided to an employee's associates are treated as if provided to the employee.

Last updated 21 December 2015

The ESS rules treat ESS interests provided to an associate of your employee as if they were acquired by your employee, rather than their associate.

Depending on the type of scheme and individual circumstances, your employee will have to pay tax, either upfront or at the deferred taxing point. Once tax has been paid under the ESS rules and the interests move into the CGT system, any future capital gain or capital loss incurred on these interests is borne by the associate.

You must provide a statement to your employee, rather than to their associate, to fulfil your reporting requirements.

QC 47635

Share trusts

If you provide shares to your employees through a trust, you still have reporting obligations.

Last updated 21 December 2015

If you provide shares to your employee through a trust, and your employee has an interest in a specific number of shares in the trust (rather than specific shares), we treat your employee as holding a beneficial interest in each of that number of shares.

If this is the case, when fulfilling your reporting obligations, you must give an *ESS statement* to all your employees who have acquired shares through that trust and include this information on the statement you provide to us.

You will not be required to provide a statement to the trustee of the share trust. The trustee of the share trust will not be required to provide a statement to its beneficiaries.

Example: Employee share trust and reporting

Lee works for Gag Ltd. Gag Ltd has an ESS that provides Lee with shares through its employee share trust, Gag Share Trust. Gag Ltd is the provider and Gag Ltd, rather than Gag Share Trust, must report to their employees and us.

General deduction for employers

A general deduction may be available for you if you provide money or other property to an employee share trust to enable it to acquire securities to provide to your employees.

The deduction would generally be available to you in the income year that the money was paid to the share trust. However, the ESS rules defer the timing of the deduction until your employee acquires the ESS interest.

QC 47636

Reporting

As an employer, you have ESS reporting obligations to your employees.

Last updated 21 December 2015

There are several reporting obligations that apply to ESS.

Find out about ESS reporting:

- ESS - Reporting requirements for employers
- How to lodge your ESS annual report electronically

QC 47637

ESS legal requirements

There are many legal and regulatory requirements to consider in implementing an employee share scheme (ESS).

Last updated 7 August 2023

> ### On this page
>
> Requirements when implementing an ESS

> Disclosure or prospectus requirements associated with

Requirements when implementing an ESS

You must be aware of the following when implementing an ESS:

- the provisions of the [Corporations Act 2001](#) relating especially to offers of shares (in particular, sections 706, 708 and 710 – 716), including disclosure requirements and exemptions
- for listed companies, the relevant stock exchange listing rules (ASX listing rules)
- the company constitution
- the provisions of the Corporations Act restricting companies from dealing with their own shares
- taxation law issues, including income tax, capital gains tax, pay as you go withholding and fringe benefits tax
- the provisions of the Corporations Act relating to financial services regulation and the rules regulating financial advice (unless you have an exemption from this by using section 708 of the Corporations Act or Australian Securities & Investments Commission (ASIC) Class Order exemptions for ESS)
- other provisions of the Corporations Act relating to licensing, advertising, hawking, managed investment schemes and on-sale of financial products
- accounting standards
- privacy legislation.

For more information on employee incentive schemes and provisions of the *Corporations Act 2001*, see Regulatory Guide 49: Employee incentive schemes.

Disclosure or prospectus requirements associated with

Where you make an ESS offer, a range of obligations under the Corporations Act may be triggered. This includes:

- [The disclosure requirement](#)
- [Disclosure exemptions](#)
- [Disclosure documents](#)
- [Other requirements of the Corporations Act](#).

The disclosure requirement

The Corporations Act requires that if you make an ESS offer, you must also give the employee a disclosure document. This is unless:

- an exemption in that Act applies
- you are relying on the relief in the relevant ASIC Class order for listed or unlisted bodies.

The following ASIC Class orders apply to relevant offers made before 1 March 2023 and are only capable of acceptance until 1 April 2024:

- [ASIC CO 14/1000]: Employee incentive schemes: Listed bodies
- [ASIC CO 14/1001]: Employee incentive schemes: Unlisted bodies.

Division 1A of Part 7.12 of the Corporations Act took effect from October 2022 and provides regulatory relief to employee share schemes, which meet particular requirements.

Division 1A replaces and expands ASIC Class Order relief in relation to employee share schemes.

Disclosure exemptions

There are limited disclosure exemptions that may apply for offers of Options to employees under the Employee Option Plan, which include both (among others):

- offers to senior managers – see subsection 708(12) and the definition of 'senior manager' in section 9 of the Corporations Act
- small-scale offers – offers to up to 20 persons not exceeding $2 million (calculated by reference to the amount payable on both grant and exercise of the option) in any 12-month period (see subsections 708(1)–(7) for more detail).

Disclosure documents

A disclosure document is a term used to describe all regulated fundraising documents for the issue of securities.

All disclosure documents must be lodged with ASIC before an offer can be made under the ESS.

The simplest type of disclosure document that can be used to make an offer under an ESS is an offer information statement (OIS). A prospectus, which has a more comprehensive content requirement than an OIS, may also be used.

An OIS must include (among other things) an audited financial report prepared in accordance with the accounting standards, which covers both:

- a 12-month period
- a balance date that occurs within the last six months, before an offer is first made under the OIS.

A prospectus must contain all information that investors and their professional advisors would reasonably require to make an informed investment decision.

Among other things, it must explain the company's financial position, performance and prospects.

For more information on prospectuses, see ASIC Regulatory Guide 228: Prospectuses: Effective disclosure for retail investors.

Other requirements of the Corporations Act

The Corporations Act also contains the following provisions that may be relevant, depending on how your ESS is implemented:

- The requirement to hold an Australian financial services licence for the incidental provision of financial services (such as giving general advice, dealing in financial products or providing custodial or depository services) in connection with the ESS.
- The prohibition on advertising an offer or an intended offer, where that offer needs a disclosure document.
- The prohibition on the issue of options or shares arising out of unsolicited contact with investors – which is referred to as hawking.
- The requirement to register a managed investment scheme for an ESS that has a contribution plan.

- The restrictions on the on-sale of financial products issued without disclosure within 12 months of their issue.

If your offer is an 'eligible employee share scheme' (defined in section 9 of the Corporations Act) and is made using a disclosure document, there are some limited exemptions from these provisions.

If you are relying on exemptions, you are generally not required to comply with these provisions.

QC 59317

Taxation generally for ESS

The tax considerations in implementing an employee share scheme (ESS).

Last updated 7 May 2020

On this page

When considering the type of employee share scheme (ESS) plan that is offered to employees, one of the considerations may be the tax concessions that are available if the conditions in Division 83A of the *Income Tax Assessment Act 1997* are met.

It is also important to make employees aware of the tax consequences of participating in an ESS. This general tax information would usually appear in the offer materials, and be signed off by a tax expert. This material should ensure that employees are clear that they need to seek their own independent advice, based on their personal circumstances.

From a corporate perspective, the company may be entitled to a company tax deduction where shares are purchased on market, or if a tax exempt plan is used. Both new issue shares and shares purchased on market are deductible up to the $1,000 limit per employee, per financial year.

Tax considerations include:

- Upward variation
- Payroll tax
- Workplace relations and employment law
- Privacy law considerations

Upward variation

An employee may ask you to increase the amount you withhold from payments to them – for example, to cover tax they will be liable to pay on investment income. Or to cover tax they will be liable to pay on ESS income.

If you agree to this, both you and your employee will enter into a written agreement (in any form that suits your business) to have additional tax withheld.

See also:

- Withholding variations

Payroll tax

ESS may be subject to state payroll tax. However, the rules vary between states. You will need to check with your local state or territory revenue office to determine how payroll tax may apply to the ESS interests you issue.

Workplace relations and employment law

Workplace relations strategy and relevant employment law should be considered when you are designing your plan. As with any benefit provided to an employee, employers must be aware of the potential impact that this can have on contractual arrangements including any employee awards. Some awards, for example, do not provide for salary sacrifice arrangements.

Information about wages and conditions of employment in Australia, for work that is covered by federal awards and agreements, can be found at fairwork.gov.au

Privacy law considerations

It is important that your company and any company that uses personal information in connection with the ESS, has an up-to-date and valid privacy policy. It is also important that there are protocols about the use and storage of personal information.

In some cases, there may be exemptions from Privacy legislation. However, that depends on the particular situation. It may be safest to assume that the privacy rules apply to your ESS.

If you are uncertain about how the privacy legislation applies to your plan, you should seek professional advice.

QC 59318

Employees

What employees need to know about employee share schemes (ESS).

Last updated 7 May 2020

On this page

An employee share scheme (ESS) provides you with a financial share in the company where you work.

You are participating in an ESS if you:

- receive shares in the company you work for at a discounted price
- have the opportunity to buy shares in the company in the future (right or option).

Tax concessions can apply to your ESS interests if you and your employer have followed special tax rules. These depend on both:

- the **type** of ESS
- **when** you acquired the interests.

If the ESS interests you receive in the company where you work are not discounted, then the ESS tax rules do not apply. However, capital gains tax can still apply.

Shares at a discounted price

The discount refers to the difference between the market value of the ESS interests and the amount you paid to acquire them. The discount forms part of your assessable income and needs to be included in your tax return.

Lodging your tax return

If you lodge a paper return, ESS discounts are recorded at Question 12 of the individual income tax return.

If you use myTax or lodge with a registered tax professional, we pre-fill this information in your tax return from mid-August each year.

Your employer must provide you with an ESS statement by 14 July after the end of each financial year, which shows you the amount of your discount. Double check the pre-filled information is consistent with the amount shown on your ESS statement.

You can use our **online calculator** to help work out the:

- discount you received from the scheme
- market value of your unlisted rights
- weighted average share closing price for your shares.

See also

- Types of ESS

- ESS and your tax
- Non-concessional schemes
- Concessional schemes (concessional tax treatment can apply)
- Indeterminate rights
- ESS interests with a taxing point before 1 July 2009
- ESS and your employer
- Record keeping

Types of ESS

There are different types of employee share schemes (ESS) your employer may offer you. It is important to know about the different schemes as their tax treatment differs.

Indeterminate rights

Your entitlement to shares may be confirmed at a later time.

ESS benefits acquired before 1 July 2009

The current law may apply to shares or rights acquired before 1 July 2009.

ESS and your employer

Your employer will give you information about the ESS and an ESS statement.

ESS and your tax

Being in an employee share scheme will affect your tax.

Record keeping

You need to keep documentation about your ESS interests.

QC 47638

Types of ESS

There are different types of employee share schemes (ESS) your employer may offer you. It is important to know about the different schemes as their tax treatment differs.

Last updated 21 December 2015

There are different types of employee share schemes (ESS) that your employer may offer. The tax treatment that applies will generally depend on the type of ESS.

You can participate in as many schemes in an income year as your employer will allow. For example, you might be provided with ESS interests in an up-front scheme and ESS interests that are eligible for the start-up concession in the same income year.

Find out about:

- Non-concessional schemes (taxed upfront)
- Concessional schemes (concessional tax treatment can apply) – includes tax-deferred and some taxed-upfront schemes.

Non-concessional schemes

Some ESS are not eligible for concessional treatment.

Concessional schemes (concessional tax treatment can apply)

QC 47639

Non-concessional schemes

Some ESS are not eligible for concessional treatment.

Last updated 21 December 2015

If you acquire ESS interests at a discount and the scheme, or your circumstances, do not meet the conditions for concessional treatment, the discount you receive is assessable in the year you acquire the ESS interests.

The ESS interests are treated as if they were provided from an upfront scheme - not eligible for reduction.

QC 47640

Concessional schemes (concessional tax treatment can apply)

Concessional tax treatment can apply where particular conditions are met.

Last updated 21 December 2015

If you acquire ESS interests under one of the concessional schemes, you can receive concessional tax treatment for your discount if you and the scheme meet:

- all general conditions for all concessional schemes
- conditions specific to the scheme and the particular ESS interests.

The general conditions include the ownership and voting rights test that applies to you.

- For ESS interests acquired on or after 1 July 2015, see the **10% ownership and voting rights test.**
- For ESS interests acquired before 1 July 2015 see the **5% ownership and voting rights test.**

Taxed-upfront scheme: Eligible for reduction

If you acquire ESS interests under this scheme, you may be entitled to reduce the discount amount that must be included in your assessable income by up to $1,000.

To be entitled to the concession, you will need to meet:

- the ownership and voting rights test
- an income test (your taxable income after adjustments must be $180,000 or less).

See also:

- Income test for the upfront concession – $1,000 reduction

Start-up concession (ESS interests acquired after 30 June 2015)

Your employer will advise if you are eligible to receive the start-up concession for your ESS interests.

If you are eligible, the start-up concession is available to you provided that you meet the 10% ownership and voting rights test.

The concession allows you to reduce your taxable discount income to nil. However, you may be subsequently assessable under the **capital gains tax** provisions when your interests are sold.

Example 1: Shares acquired under the start-up concession (ESS interests acquired after 30 June 2015)

Senka has just started working for Millie's Bears Pty Ltd. As part of her employment contract, on 1 September 2015 she is provided with 2,500 shares under an ESS at a 15% discount. Millie's Bears Pty Ltd is a start-up company and has advised

Senka that all of the conditions for the start-up concession have been met.

Senka does not need to report an ESS discount amount in her 2016 tax return (the income year she acquires the shares). However, when she disposes of the shares she will need to account for the sale under the capital gains tax provisions.

Example 2: Rights acquired under a start-up concession (ESS interests acquired after 30 June 2015)

Phoebe has just started working for Truffles Pty Ltd. As part of her employment contract, on 10 October 2015 she is provided with 1,500 options under an ESS. The exercise price of the options is $1.20 per option and the market value of an ordinary share in Truffles Pty Ltd on the date the options are acquired is $1.15. Truffles Pty Ltd is a start-up company and they advise Phoebe that all of the conditions for the start-up concession have been met.

The company provides Phoebe with the following details:

- Number of options: 1,500
- Exercise price of each option: $1.20
- Market value of an ordinary share on the date of acquisition: $1.15
- Acquisition date of the options: 10 October 2015

As the exercise price of an option is higher than the market value of an ordinary share in Truffles Pty Ltd at the time Phoebe acquires the options and the remaining conditions for the start-up concession have been met, Phoebe does not need to report the ESS discount in her 2016 tax return (the income year she acquires the options). However, when she disposes of the options or the shares she acquires if she exercises the options, she will need to account for the sale under the capital gains tax provisions.

Salary sacrifice: Tax-deferred scheme

If you acquire ESS interests under this scheme, the tax on the discount you receive on your interests will be deferred until the income year in which the **deferred taxing point** occurs, provided the conditions are met.

The conditions are:

- under salary-sacrifice arrangements, you acquire no more than $5,000 worth (per year) of shares or stapled securities in your employer (or any holding company of your employer)
- you meet the ownership and voting rights test.

Real risk of forfeiture: Tax-deferred scheme

Some schemes include terms that create a risk that your ESS interests will be lost or forfeited. If you have acquired ESS interests under this type of scheme your interests are taxed in the income year the **deferred taxing point** occurs if:

- you meet the ownership and voting rights test
- your individual circumstances do not prevent you from being eligible because there is no risk that you will lose your particular interests.

In some circumstances you will not be able to defer tax even though you have participated in a tax-deferred scheme. You need to consider your individual circumstances to determine whether your ESS interests are in fact at a real risk of forfeiture. For example, if your employer allows only retiring employees to keep their interests when they cease employment, then there will be no risk that you will lose any interests that you acquire after the time you notify your employer of your retirement date.

See also:

- To work out if your ESS interests are at a real risk of forfeiture, refer to ESS: Real risk of forfeiture

Disposal restrictions: Tax-deferred scheme (ESS interests acquired after 30 June 2015)

If you acquire an ESS interest that is a right, the tax on the discount will be deferred until the **deferred taxing point** occurs if, at the time you acquired the right under the scheme:

- you are restricted from immediately disposing of your ESS interest
- the scheme's rules state specifically that the scheme is a tax-deferred scheme
- you meet the 10% ownership and voting rights test.

Deferred taxing point

If you acquire ESS interests under a tax-deferred scheme, you will be assessed in the year the deferred taxing point occurs. The amount assessed will be the market value of the ESS interests at the deferred taxing point, reduced by the cost base of the ESS interests.

Shares

The deferred taxing point for a share or stapled security is the earliest of the following:

- when there is no real risk of forfeiture and the scheme no longer genuinely restricts disposal of the share.
- when you cease the employment in respect of which you acquired the share
- 15 years after you acquired the share (or seven years for ESS interests acquired before 1 July 2015).

Rights

The deferred taxing point for a right is the earliest of the following:

- when there is no real risk of forfeiting the right and the scheme no longer genuinely restricts disposal of the right
- when you cease the employment in respect of which you acquired the right
- for ESS interests acquired after 30 June 2015
  - when you exercise the right, there is no real risk of forfeiting the resulting share and the scheme no longer genuinely restricts disposal of that share
  - 15 years after you acquired the right
- for ESS interests acquired before 1 July 2015

- when there is no real risk of forfeiting the right or underlying share, and the scheme no longer genuinely restricts exercise of the right or disposal of the resulting share
- 7 years after you acquired the right.

Example: Tax-deferred scheme – deferred taxing point

Zoran is employed by Poppy Seed Ltd. On 30 July 2015 he acquires rights to shares in Poppy Seed Ltd under a tax-deferred scheme.

Zoran will forfeit the rights if he stops working for Poppy Seed Ltd before 30 July 2016. His rights are therefore at a real risk of forfeiture. The ESS does not permit disposal of the rights.

On 30 July 2016 there is no longer a real risk of Zoran losing his rights. The deferred taxing point does not happen at this time. On 30 November 2016, while still employed by Poppy Seed Ltd, Zoran exercises his rights and acquires shares. As there is no risk that Zoran will forfeit the shares and there are no restrictions on the disposal of those shares, the deferred taxing point happens at that time. Zoran has to declare his discount in his 2017 tax return.

The 30-day rule can change the deferred taxing point

This rule only applies to tax-deferred schemes. It does not apply to taxed-upfront schemes.

Where you dispose of an ESS interest (or the share you acquire on exercise of a right) within 30 days after a deferred taxing point occurs, the deferred taxing point becomes the date of that disposal (this is called the 30-day rule).

For example, a deferred taxing point occurs on 10 March 2016 and the employee disposes of the ESS interest on 29 March 2016. As the disposal is within 30 days, the deferred taxing point becomes 29 March 2016.

See also

- ESS: Genuine disposal restrictions and deferred taxing points
- ESS: Real risk of forfeiture

QC 47641

Indeterminate rights

Your entitlement to shares may be confirmed at a later time.

Last updated 21 December 2015

When you acquire a right from an employer, your entitlement to a share or a specific number of shares may be uncertain. This is known as an indeterminate right. For example, you could be given a right to acquire, at a future time any of the following:

- shares with a specified total value, rather than a specified number of shares
- a number of shares to be determined at a later time
- either shares or cash (at the discretion of your employer).

When it becomes clear that the right will result in you receiving a share or a specified number of shares, that right is treated as if it was always a right to acquire a share (or the specified number of shares).

See also:

- ESS: Indeterminate rights

Example: Indeterminate rights

Vesna is employed by Bright Heart Ltd. On 14 April 2010, Bright Heart Ltd provides Vesna with a right to acquire either shares in the company or cash, to be determined by Bright Heart Ltd at some time in the future. Vesna pays no consideration for this right. Vesna does not receive any other ESS interests in 2009–10.

The right is not subject to a real risk of forfeiture.

When Vesna acquires the right she doesn't have rights to shares, as her employer has not determined that she will definitely receive shares.

On 10 May 2013, Bright Heart Ltd decides to give Vesna 600 shares to satisfy her right. Her original right is now treated as if it had always been rights to acquire 600 shares from the time it was acquired on 14 April 2010. Those rights were acquired under a taxed-upfront scheme eligible for reduction.

As the rights to shares were acquired under a taxed upfront scheme eligible for reduction, and the discount must be included in Vesna's assessable income in the acquisition year, Bright Heart Ltd must give Vesna an amended ESS statement for the 2009–10 financial year, within 30 days of Bright Heart Ltd determining that Vesna will definitely receive shares. Ordinarily, Vesna's assessments can only be amended within a two-year period. However, the ESS rules for indeterminate rights provide that Vesna's assessment can be amended at any time to include the discount in the 2009–10 financial year.

Vesna amends item 12 Employee share schemes on her 2010 tax return. Vesna can reduce her discount by $1,000 if eligible.

QC 47642

ESS benefits acquired before 1 July 2009

The current law may apply to shares or rights acquired before 1 July 2009.

Last updated 21 December 2015

The current ESS rules apply to all ESS interests acquired from 1 July 2009. The current rules also contains transitional arrangements that will apply to some ESS interests that were acquired before 1 July 2009. These ESS interests are known as transitioned interests. Under transitional arrangements, some of the previous rules are preserved while some current rules do not apply, or are modified in the way that they apply to a transitioned interest.

The previous law will continue to apply to shares, stapled securities or rights to shares, or rights to stapled securities not brought within the current law.

Find out:

- When the current ESS rules do not apply
- When the current ESS rules do apply

When the current ESS rules do not apply

The current ESS rules won't apply in some circumstances to pre 1 July 2009 interests.

When the current ESS rules do apply

The current ESS rules will apply to pre 1 July 2009 interests that are transitioned interest.

QC 47643

When the current ESS rules do not apply

The current ESS rules won't apply in some circumstances to pre 1 July 2009 interests.

Last updated 21 December 2015

The current ESS rules do not apply to your ESS interests, if you acquired them before 1 July 2009 and they were:

- non-qualifying shares or rights
- qualifying shares or rights, and you elected to be taxed upfront under the previous law, or

- qualifying shares or rights, and a cessation time happened to the shares or rights before 1 July 2009.

In these cases, the previous law will continue to apply.

See also:

- For more information on how to apply the previous law, see ESS interests with a taxing point before 1 July 2009.

QC 47644

When the current ESS rules do apply

The current ESS rules will apply to pre 1 July 2009 interests that are transitioned interest.

Last updated 21 December 2015

On this page

The current law applies to ESS interests that are qualifying shares or rights you acquired before 1 July 2009 if:

- you did not elect to be taxed upfront under the previous law, and
- a cessation time did not happen to your shares or rights before 1 July 2009.

Deferred taxing point

Transitioned interests will have a deferred taxing point that is determined by reference to the cessation time worked out using the previous law. The market value of the ESS interests at the deferred taxing point is worked out using the new law.

The new 30-day rule will also apply so that if you dispose of your ESS interest (or the share acquired on exercise of the right) within 30 days after the deferred taxing point, the deferred taxing point becomes the date of that disposal.

Refund of tax for forfeiture of an ESS interest

The previous law continues to apply to a transitioned right where the right is forfeited or lost after 30 June 2009. If you satisfy the conditions for a refund of tax under the previous law then the conditions under the current rules are also satisfied.

Will you get an ESS statement?

Your employer will not know whether you elected to be taxed upfront under the previous law. As a result, your employer must include details on an ESS statement showing all transitioned interests with a possible deferred taxing point during the income year.

TFN withholding tax rules do not apply to transitioned interests

Your employer is not required to withhold tax if you have a deferred taxing point for a transitioned interest, even if you have not given them your TFN or ABN by the end of the income year.

Indeterminate rights

A transitional rule provides that a right acquired before 1 July 2009, which only clearly becomes an ESS interest after 1 July 2009 (an indeterminate right), will be treated as if it were always subject to the previous law.

If under the previous law, tax is deferred on the right beyond 1 July 2009, the right will be treated as a transitioned interest.

QC 47645

ESS and your employer

Your employer will give you information about the ESS and an ESS statement.

Last updated 21 December 2015

Your employer will do three key things.

1. **Tell you if you are eligible**

Your employer will tell you if you are eligible to participate in an employee share scheme.

2. **Tell you the type of scheme**

They will also tell you whether the employee share scheme or schemes offered meet the criteria for the start-up concession, taxed-upfront - eligible for reduction or tax-deferred schemes. This will help you work out whether you will need to pay tax on any discounts received in the year in which you acquire the ESS interests or at a later time. They will not tell you if your own circumstances allow you to access the concessions. You will need to review your taxable income after adjustments and also determine whether you meet the ownership and voting rights test.

3. **Give you an ESS statement**

Your employer will give you an **ESS statement** detailing the discount amounts you need to include in your assessable income for each income year.

Your ESS statement will show the:

- discount for ESS interests acquired under each type of taxed-upfront scheme
- discount for ESS interests acquired under a tax-deferred scheme for which a taxing point arose during the financial year

- discount for shares and rights acquired before 1 July 2009 for which a cessation time occurred during the financial year
- total TFN amounts withheld from discounts during the financial year
- details of shares and options acquired under the start-up concession (this will help you complete any capital gains tax calculations when you sell the ESS interests or the shares you acquired from exercising your ESS interests).

Your employer must give you an ESS statement by 14 July after the end of the relevant financial year. This ESS statement will help you complete your tax return.

Find out:

- Tax file number (TFN) withholding for ESS
- Employee share trusts

Tax file number (TFN) withholding for ESS

Your employer must withhold tax if they don't have your TFN or ABN.

Employee share trusts

Your employer may use an employee share trust to give you your ESS interests.

QC 47646

Tax file number (TFN) withholding for ESS

Your employer must withhold tax if they don't have your TFN or ABN.

Last updated 21 December 2015

If you don't give your employer your TFN or ABN they will withhold tax from you, in relation to the discount on your ESS interests.

If withholding tax applies, your employer must remit (pay) the tax to us – the rate of withholding tax is the highest individual tax rate plus the Medicare levy (and for the 2015–2017 income years, the Temporary Budget Repair levy).

Your employer can recover this amount by offsetting the withholding tax paid against any other amounts owed to you, such as salary and wages.

You can also claim a credit for the amount of withholding tax paid on your tax return. The total amount of withholding tax paid for which you can claim a credit will appear on your **ESS statement**.

Remember, this **won't** apply to you if you have already given your employer a *TFN declaration*.

QC 47647

Employee share trusts

Your employer may use an employee share trust to give you your ESS interests.

Last updated 21 December 2015

Your employer may use an employee share trust to give you your ESS interests. Even though the ESS interests are held by the trust, we treat you as holding those interests.

Your employer will include any discount from ESS interests you acquire through an employee share trust on your ESS statement.

QC 47648

ESS and your tax

Being in an employee share scheme will affect your tax.

Last updated 21 December 2015

Learn how being in an ESS will affect your tax.

Find out about:

- Tax return
- Income test for the upfront concession – $1,000 reduction
- Forfeiture or loss of ESS interests
- ESS interests acquired by your associates
- ESS and capital gains tax
- Foreign-sourced ESS interests

Tax return

You will need to report on your ESS interests in your tax return.

Income test for the upfront concession - $1,000 reduction

You may be able to reduce your taxable income by $1,000.

Forfeiture or loss of ESS interests

You may be entitled to a refund of tax paid if your ESS interests lapse or are forfeited.

ESS interests acquired by your associates

ESS interests provided to your associates are treated as if they

ESS and capital gains tax

There may be capital gains tax when you sell or dispose of your shares or rights.

Foreign-sourced ESS interests

Your residency for tax purposes and your country of employment can affect how you are taxed.

QC 47649

Tax return

You will need to report on your ESS interests in your tax return.

Last updated 21 December 2015

If you receive ESS interests in a taxed-upfront scheme or have a deferred taxing point for your ESS interests in a tax-deferred scheme, you need to include the discount in your tax return. You will need your ESS statements from your employer.

ESS discounts are recorded at Question 12 of the Individual income tax return. Make sure you record your ESS discounts in the correct income year.

QC 47650

Income test for the upfront concession – $1,000 reduction

You may be able to reduce your taxable income by $1,000.

Last updated 21 December 2015

If you have participated in a taxed-upfront scheme – eligible for reduction, you may be able to reduce your taxable income by up to $1,000.

In order to access the $1,000 reduction you must:

- have a taxable income after adjustments in the income year of $180,000 or less, and
- satisfy the
  - **10% ownership and voting rights test** immediately after acquiring the ESS interests (ESS interests acquired after 30 June 2015)
  - **5% ownership and voting rights test** immediately after acquiring the ESS interests (ESS interests acquired between 1 July 2009 and 30 June 2015).

At the time you participate in an ESS you may not know whether you meet the income test. You will calculate your taxable income after adjustments when you complete your tax return for the year.

Calculating your taxable income after adjustments

When preparing your tax return, you must calculate your taxable income after adjustments for the income year in order to determine whether you are entitled to the $1,000 reduction.

You calculate your taxable income after adjustments for the income year by adding your:

- **taxable income (including the total amount of all ESS discounts)**
- **reportable fringe benefits** total (if any)
- **reportable superannuation contributions** (if any), and
- **total net investment loss.**

If your taxable income after adjustments is $180,000 or less, you are entitled to reduce your employee share scheme discount amount by up to $1,000. You cannot use the reduction to reduce your discount amount from a taxed-upfront scheme - eligible for reduction to less than nil.

Example 1: Taxed-upfront scheme – eligible for reduction, employee is eligible for the concession

Lester works for Fishing Charters Ltd and acquires 600 shares in Fishing Charters under an ESS on 29 July 2015.

The total market value of the shares is $3,000. Lester is only required to pay $1,500 to purchase the shares; therefore, he acquires the shares for a discount of $1,500 ($3,000 less $1,500).

On 8 July 2016, Fishing Charters gives Lester an ESS statement with an amount of $1,500 at label D 'Discount from taxed upfront schemes – eligible for reduction'.

Lester has to complete item 12 'Employee share schemes' on his 2016 tax return. He writes $1,500 at label D 'Discount from taxed upfront schemes – eligible for reduction'.

Lester completes the remainder of his tax return and his taxable income after adjustments (including the $1,500 discount) is $91,000.

As Lester acquired his shares under a taxed-upfront scheme eligible for reduction and his taxable income after adjustments is less than $180,000, Lester is eligible for the upfront concession of $1,000.

As Lester has no other ESS interests, he now writes $500 ($1,500 total discount received less $1,000 concession) at label B 'Total assessable discount amount'.

Example 2: Taxed-upfront scheme – eligible for reduction, employee is not eligible for the concession

Jane works for Star Ltd and acquires 500 shares in Star Ltd under an employee share scheme on 3 July 2009.

The total market value of the shares is $4,000. Jane is required to pay $2,700 to purchase the shares; therefore, she acquires the shares for a discount of $1,300 ($4,000 less $2,700).

On 5 July 2010 Jane's employer, Star Ltd gives Jane an ESS statement with an amount of $1,300 at label D 'Discount from taxed upfront schemes – eligible for reduction'.

Jane has to complete item 12 'Employee share scheme' on her 2010 tax return. She writes $1,300 at label D 'Discount from taxed upfront schemes – eligible for reduction'.

Jane completes the remainder of her tax return and after adjustments for reportable fringe benefits, reportable superannuation contributions and total net investment loss, her taxable income (including the $1,300 discount) is $200,000.

As Jane's taxable income after adjustments exceeds $180,000, Jane is not eligible for the upfront concession of $1,000.

As Jane has no other ESS interests and she is not entitled to claim the $1,000 concession, she now writes $1,300 at label B 'Total assessable discount amount'.

Note: As Star Ltd will not know Jane's taxable income after adjustments they report the discount to us as $1,300.

QC 47651

Forfeiture or loss of ESS interests

You may be entitled to a refund of tax paid if your ESS interests lapse or are forfeited.

Last updated 21 December 2015

If you have included a discount on your ESS interests in your assessable income, you may be entitled to exclude the discount and receive a refund of any tax paid in relation to those interests, if the interests are either:

- subsequently forfeited

- in the case of a right, forfeited, lapsed, expired or lost (without the right having been disposed of or exercised).

For ESS interests acquired between 1 July 2009 and 30 June 2015 you are only entitled to a refund if all of the following apply:

- the conditions of the scheme did not have the direct effect of protecting you from a fall in the market value of the interest, and
- you had no choice but to forfeit or lose the ESS interests (except where the choice was to cease employment).

For ESS interest acquired from 1 July 2015 you are only entitled to a refund if all of the following apply:

- the conditions of the scheme did not have the direct effect of protecting you from a fall in the market value of the interest
- the forfeiture or loss was not the result of a choice you made, except where the choice was to either
  - cease employment
  - if the ESS interest was a right, not to exercise the right before it lapsed or allow the right to be cancelled.

If you are entitled to a refund, you are treated as never having acquired your ESS interests.

You can amend your tax return for the income year the discount was included. There is no time limit for amending a tax return to exclude this amount from your assessable income.

See also

- Lapsed and forfeited ESS interests

Example: Choice not to exercise rights – no refund (July 2009 to June 2015)

Leigh is granted rights to acquire shares in his employer Welding Ltd under an ESS in the 2010 income year. The scheme is a taxed-upfront scheme – not eligible for reduction.

The rights are exercisable on payment of the exercise price and will lapse if not exercised by 10 May 2012.

Leigh includes the discount in his 2010 income tax return.

In the 2012 financial year, the market value of Welding Ltd shares falls dramatically and by May 2012, it is below the exercise price.

Leigh decides not to exercise the rights and they subsequently lapse.

As Leigh has chosen not to exercise the rights, he is not entitled to exclude the discount he included in his 2010 assessment.

QC 47652

ESS interests acquired by your associates

ESS interests provided to your associates are treated as if they were provided to you.

Last updated 21 December 2015

If an associate of yours acquires ESS interests which are provided in relation to your employment or services, the ESS rules require you (rather than your associate) to include the discount in your assessable income. Your associates can be your spouse, child, company or trustee of a trust (other than the trustee of an employee share trust). For example, you may give a portion of your shares to your wife or child. However, the rules still apply to you (meaning you need to include the discount in your assessable income).

If you have included a discount in your assessable income in relation to the ESS interests and the ESS interests are subsequently forfeited or lost, you will be entitled to amend your income tax return to exclude the discount from your assessable income (rather than the assessable income of your associate), provided the conditions for obtaining a refund are met.

Your employer will give you an ESS statement which includes ESS interests provided to your associates. You will need this statement to help you complete your tax return.

Example: Taxed upfront scheme – eligible for reduction, ESS interests acquired by an associate

Keiko works for Jester Pty Ltd and is entitled to shares under her employment agreement. She gives half of her shares to her daughter, Miyuki.

As the shares are provided in relation to Keiko's employment and therefore are part of her income, Keiko will include the discount on her own tax return. Miyuki will not need to include the discount on her tax return.

As the shares are in Miyuki's name, not Keiko's name, Miyuki has ownership of them. Therefore, once they have been included in Keiko's income under the employee share scheme rules, they no longer have any connection to Keiko.

For CGT purposes, Miyuki is taken to have acquired the shares at market value.

If Miyuki incurs any additional costs in relation to the shares, they can be included in the cost base. When Miyuki disposes of the shares, the cost base will be used to calculate any subsequent gains or losses on the shares.

QC 47653

ESS and capital gains tax

There may be capital gains tax when you sell or dispose of your shares or rights.

Last updated 21 December 2015

On this page

> CGT treatment of an ESS interest that is eligible for the start-up concession

In most cases, ESS interests are exempt from CGT implications until the discount on the ESS interest has been taxed.

When you sell your ESS interests (or resulting shares) they are taxed under the CGT rules (or if you are a share trader, the trading stock rules).

CGT treatment of an ESS interest after the deferred taxing point

For an ESS interest that is taxed upfront, the interest is taken to have been acquired for its market value on the date of acquisition.

For an ESS interest for which tax is deferred, the ESS interest (and the share or right that it forms part of) is taken to have been re-acquired immediately after the deferred taxing point. This resets the cost base of the ESS interest to its market value at this time, and resets the acquisition date, which will be relevant to your eligibility for the 50% CGT discount.

Example 1: Taxed-upfront scheme, CGT treatment of an ESS interest after the taxing point

Tarlee acquires shares in her employer Chi Chi Fashion Ltd under a taxed-upfront scheme. The market value of the shares at the date of acquisition is $4,000.

For CGT purposes, Tarlee is taken to have acquired the shares at market value. Therefore, the cost of the shares at the time of upfront taxation, which is also the time the shares are acquired, is $4,000.

If Tarlee incurs any additional costs in relation to the shares, they can be added to the $4,000 to form the cost base. If Tarlee chooses to dispose of the shares, the cost base will be used to calculate any subsequent gains or losses on the shares.

These gains or losses will be recognised under the CGT rules and recorded on Tarlee's tax return.

CGT treatment of an ESS interest that is eligible for the start-up concession

In the case of ESS interests eligible for the start-up concession, the discount on those interests will not be included in your income. However, under the CGT rules the ESS interests or resulting shares will be taxed when sold or transferred.

What is the cost base?

If you acquire an ESS interest that is a share under the start-up concession, the cost base of that share is the market value of the share when you acquired it.

If you acquire an ESS interest that is a right under the start-up concession and you sell the right, the cost base of that right will be any amounts that you have paid to acquire and sell the right. If you exercise the right and sell the resulting share, the amount you paid to exercise the right will be added to the cost base.

50% CGT discount

If you acquire a share by exercising a right that was eligible for the start-up concession, the date of acquisition of the share is taken to be the date the right was acquired. When you sell or transfer the share, use this date to work out if the 50% CGT discount is available to you.

Example 2: Start-up concession, sale of shares

Jodie acquires 500 ESS interests that are shares from Whirl Icecream Pty Ltd in the 2016 income year. Whirl Icecream Pty Ltd is a start-up company. Jodie pays $1.70 to acquire each of her shares and the market value of the shares at acquisition is $2.00. Therefore, Jodie acquires the shares at a 15% discount. All of the other conditions for the start-up concession have been met so Jodie is not required to include an amount in her 2016 income tax return in relation to the acquisition of the shares.

During the 2020 income year, Jodie sells her shares. Jodie uses the market value substitution rule and calculates the cost base of her shares to be $2.00, which is the market value of the shares at acquisition. She uses this cost base in the CGT calculation for the sale of her shares.

Example 3: Start-up concession, sale of rights

Sheila acquires 750 ESS interests that are rights from Mega Salads Pty Ltd in the 2017 income year. Mega Salads Pty Ltd is a start-up company. The exercise price of each ESS interest is $3.70 and the market value of an ordinary share in Mega Salads Pty Ltd on the date the ESS interests are acquired is $3.60. As the exercise price is greater than the market value of an ordinary share and the remaining conditions for the start-up concession have been met, Sheila is eligible for the start-up concession, so she is not required to include an amount in her 2017 income tax return in relation to the acquisition of the rights.

During the 2020 income year, Sheila sells her rights. As Sheila has not paid anything to acquire the rights, she starts with a nil cost base. If Sheila incurs any other costs in selling the rights, these costs are added to the cost base. She uses this cost base in the CGT calculation for the sale of her rights.

Note, if Sheila had exercised her rights and then sold the resulting shares, the exercise price would have been included in the cost base of the shares.

Example 4: Start-up concession, sale of shares acquired on exercise of rights, availability of 50% CGT discount

Tara acquires ESS interests that are rights from Pink Pty Ltd on 1 July 2017, under the start-up concession. Tara exercises the rights on 1 September 2020 and sells the resulting shares on 1 January 2021.

For CGT discount purposes, the acquisition date of the shares is taken to be the acquisition date of the rights (1 July 2017).

Although Tara held the resulting shares for less than 12 months, as she has held the ESS interests that were the rights to acquire the shares and the resulting shares for a combined period of more than 12 months, she is eligible to apply the 50% CGT discount.

QC 47654

Foreign-sourced ESS interests

Your residency for tax purposes and your country of employment can affect how you are taxed.

Last updated 21 December 2015

Generally, Australian residents pay Australian income tax on all discounts received under an employee share scheme regardless of whether they are received in relation to employment in or outside Australia.

However, this rule may be affected by Australia's double tax agreements and the temporary resident rules.

If you are a foreign resident taxpayer, you only pay Australian income tax on discounts you receive under an employee share scheme to the extent that the discount relates to employment in Australia.

See also:

- Foreign income exemption for Australian residents and temporary residents - employee share schemes

QC 47655

Record keeping

You need to keep documentation about your ESS interests.

Last updated 21 December 2015

Here is a list of the records you need to keep for ESS interests:

- the date you acquired them and the date you sold them (or the date you exercised the rights)
- the total number you acquired, exercised or sold
- any amounts you paid or received
- the amount or percentage of the discount you received (for ESS interests acquired from 1 July 2009, you can use an ESS statement supplied by your employer to support this) or other proof of the market price on the date of acquisition and the reporting date (if applicable)
- any offer documentation
- the rules of the employee share scheme
- for shares or rights acquired before 1 July 2009 only – details of elections made to include discounts in the year of acquisition.

QC 47656

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.