

Enterprise Management Incentives (EMI)

Many employers wish to reward and retain their key employees by providing share ownership plans.

However in most cases it is not simply a matter of transferring shares to their employees, as this may lead to large income tax liabilities for the employee or a big PAYE bill for the employer.

However, it is possible to provide share options to employees using an Enterprise Management Incentive (EMI) Scheme, which by its design is tax efficient and is fully approved by HM Revenue & Customs (HMRC).

Enterprise Management Incentives

This scheme was introduced to help small, higher risk companies with the potential for growth to recruit and retain key employees.

How the company qualifies

The total number of EMI options granted must not exceed £3,000,000 at any one time by the company. The following requirements must also be met:

- The share options granted must be in an independent trading company (or holding company of a trading group);
- Gross assets of the company must not exceed £30 million;
- The company must have fewer than 250 employees.

Eligible individual

For an option to be a qualifying option, it must be granted to an 'eligible employee':

- The individual must be an employee (or Director) of the company;
- The employee must have 'committed time' of at least 25 hours per week, or 75% of their total working time if this is less than 25 hours per week;
- The employee must not already have a 'material' interest in the company.

'Material' interest is defined by the employee already having beneficial ownership of, or the ability to control more than 30%, of the company granting the options.



Tax advantages

- No tax charge on the grant of the option;
- No income tax or NIC's payable on the employee when the options are exercised. This is provided that the exercise price is set at the market value of the shares at the date of grant, as agreed with HMRC at the outset;
- An income tax and NIC charge would only arise where options are granted at a discount, on the difference between the exercise price and the market value of the shares when granted;
- Once exercised, the gain on any shares sold will be subject to Capital Gains Tax (CGT) at a maximum rate of tax of 20% when they are sold.
- In practice, where options are held for more than 1 year from the date they are granted, and are later exercised and sold, Entrepreneurs' Relief will apply, meaning that CGT is only charged at 10% on the gain.
- Finally, where share options held under the scheme increase in value from the date they are granted, the issuing company can receive Corporation Tax relief on the exercise of the options as they convert into shares.

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