



Enterprise Management Incentives (EMI)

Introduction

Employee engagement is a much discussed topic in the business community for a good reason. Your employees are the lifeblood of your business and losing key employees or not attracting new talent can cause significant disruption and financial loss.

There are many ways to incentivise management and employees and the best way will depend on your business.

Employee share incentives are a popular way for companies to recruit and retain key staff. In particular, Enterprise Management Incentives (EMI) share options are an incredibly effective way to motivate, retain and reward your team, giving them a sense of ownership and a financial stake in the future of the company. EMI share options are endorsed by the UK Government to encourage employee ownership of companies.

Other share rewards are generally only used where EMI options are not available.

exercise price equals the market value at grant, on the exercise of the option. There is just a charge to capital gains tax on the sale of the option shares.

Who are they for?

EMI options come with a number of conditions, but it is usually possible to design a tax efficient incentive that works well for both the employer and the employee. They are particularly relevant to companies looking to grow their value with a view to an exit in the short to medium term.

EMI options are targeted at independent trading companies with a permanent establishment in the United Kingdom, gross assets not exceeding £30 million and fewer than 250 employees (on a full-time equivalent basis).

The trade must not be one of certain excluded activities such as dealing in land, banking, property development, farming, operating, and managing hotels, nursing homes or residential care homes.

What are EMI share options?

A share option is a right to acquire a specified number of shares in a company at a future date for a pre-determined price.

Share options can be used very flexibly. You can cherry pick the employees to be given options, set your own performance criteria that are required to be met before they can be exercised, and withdraw options from employees who leave.

There are significant advantages to EMI options as they are simple, flexible and have a very advantageous tax treatment.

But why not simply give shares in the company rather than options? One of the reasons may well be tax, as a gift of shares can attract a tax charge (and sometimes also National Insurance).

By contrast, an EMI share option gives rise to no tax charge on the grant of the option or, provided the

in general, eligible employees must work at least 25 hours per week for the company. If an employee is employed for less than 25 hours per week, they must spend at least 75% of their total working time at the company.

An employee must not already hold more than 30% of the shares in the company including any shares held by their spouse, parents, children etc.

The total value of unexercised EMI options that a company can grant must not exceed £3m. An individual can be granted options with a tax market value of up to £250,000. Both these limits are determined at the time the option is granted and are not recalculated during the life of the option.

What are the benefits?

There is no income tax charge on the grant or exercise of an EMI option provided the employee pays the current market value of the option shares at the date of grant when the options are exercised.

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Options can be granted with an exercise price which is at a discount to the market value of the option shares when the option is granted, but income tax (plus potentially employee and employer National Insurance contributions) will be due at exercise on the discount.

All growth in the value of the shares between grant of the option and ultimate sale of the shares is charged to tax at capital gains tax rates, the current top rate of which is 20% but can be as low as 10% if the sale of the shares is more than two years after the EMI option is granted. This compares to a current income tax rate of up to 45%, plus employee and employer National Insurance contributions, for an employee bonus.

On exercise of the share option, the company can usually obtain a corporation tax deduction based on the market value of the shares at that time.

Share valuations can be agreed with HMRC in advance so that the employee and company have certainty over the tax position. It is also possible to confirm with HMRC in advance the company's qualifying status to grant EMI options.

Design

EMI share option schemes are very flexible, and the design can be tailored to your circumstances.

There is flexibility regarding when options can be exercised by an employee, although the majority of EMI options are exercisable only a sale or winding up of the company (an 'exit only' option). Exit only options are particularly attractive to both the employee and the company because

if the employee leaves, no money has changed hands at that point, and the share option will simply lapse.

Want to find out more?

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