

TOP TIPS FOR EMI SCHEMES & INCENTIVISING YOUR EMPLOYEES

If you are looking to incentivise key employees within your business, giving them shares in the company is a great way to do so. Enterprise Management Incentives (EMI) share options are a great way of getting shares to your employees in a tax advantageous way.

- The rules of an EMI scheme can be flexible. A company can decide that EMI share options can be exercised after a set period of time (to tie individuals in to the company) or on the occurrence of a specific event such as the individual or company meeting a set target, or the company being listed or sold.
- EMI schemes are beneficial to employees as there should be no income tax or national insurance payable on the grant or exercise of an EMI option.
- To benefit from this advantageous tax status the EMI options must be granted at (at least) market value.
- Options must be capable of being exercised within ten years of being granted (although they do not have to be exercised within that period). If performance or other conditions apply, they must be capable of being met within ten years, so be sure to set sensible targets.
- The disposal of shares acquired pursuant to an EMI scheme can also benefit from entrepreneur's relief. The relief reduces capital gains tax on gains accrued on the disposal of shares to be taxed at the reduced rate of 10 per cent. In order to qualify for ER the EMI options must have been held for 12 months.
- EMI options can be granted to allow each individual to purchase up to £250,000 of shares and so allow ample scope to offer large incentives to employees.
- If there is any doubt about whether the company will qualify to grant EMI options, informal discussions or advance clearance can be sought from HMRC's Small Company Enterprise Centre (SCEC) which can give peace of mind.
- Remember to set out the terms of the EMI scheme in a written agreement between the grantor and the option holder, which must state: the grant date; the number of shares under option; the exercise price per share; when and how the option can be exercised; and details of any restrictions attaching to the EMI shares.
- If the company makes further grants under the plan, it will be necessary to revisit these issues, and in particular, check the company still qualifies under the EMI scheme:
 - Check the overall limit and the individual limits
 - Revalue the shares and option
 - Draft a new option agreement
 - Hold a board meeting
 - Execute option agreements
 - Notify HMRC immediately after the grant (for EMI options) and at the end of the year (for non-qualifying options)
- Crucially, make sure you explain to your employees how the EMI scheme works, the way it benefits them and the targets they are striving for to make use of their EMI options. In order to incentivise your employees they need to know what they're working towards.

Get in touch

For further information, please contact Kirsty Simmonds whose details are below.



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