



Enterprise Management Incentive (EMI) Scheme

The primary purpose of EMI share option scheme is to help companies attract and retain key employees by allowing them to reward such employees with tax advantaged share options.

About EMI

One of the appealing aspects of the scheme is that companies can offer the share options to selected employees. Further, companies can attach specific conditions such as defined price, individual performance and retention conditions to the options granted.

Benefits of an Enterprise Management Incentive

The following are some of the benefits commonly associated with grant of EMI share options:

- To motivate and retain key employees by giving them a stake in the company and look beyond their short term aspirations.
- The shares can qualify for Entrepreneurs' Relief without having to meet the 5% threshold.
- They protect existing shareholders from immediate dilution and loss of control.
- Encourage growth by linking awards to performance conditions
- New participants to the scheme can be added without complication.

The following paragraphs broadly set out the qualifying conditions for the company granting the options and employees receiving it. They should give you a general overview on whether the company and the employees could qualify for the scheme. They are however not to be taken as confirmation as particular circumstances may render the company and/or the employees not meeting the conditions of the scheme.

Conditions for qualifying companies

- The company must be engaged in a qualified trade.
- The shares must be fully paid-up, non-redeemable ordinary shares in the company.
- It must not be controlled by another company e.g. more than 50% of its ordinary shares held by another company. If the company has subsidiaries, it must have control (directly

- It must have fewer than 250 full time employees i.e. those with standard working week of at least 35 hours. Part time employees are calculated on a just and reasonable basis.
- The gross assets of the company must not exceed £30 million.

If the company proposing to grant EMI share options is within a group, the above conditions is in respect of the group as a whole.

Conditions for qualifying employees

- They must not have material interest in the company e.g. having beneficial ownership of more than 30% in the ordinary share capital of the company.
- They must have a contract of service and is required to either spend at least 25 hours each week or 75% of the employee's working time working as an employee for the company.
- A director is also considered an "employee" under this scheme if he or she meets the abovementioned conditions.

Limitations of the scheme

A qualifying company can grant EMI share options with a market value of up to £250,000 to each qualifying employee, subject to the total value of £3 million granted to all qualifying employees.

Tax issues

There are no income tax and national insurance charge on the grant of the EMI option.

Subject to the conditions set out above, there are also no income tax and national insurance charge if the option exercise price is the same or more than the market value of the shares on the day the option was granted.

If the options were granted at a discount, income tax would be due on the difference between the market value at the date of grant and the option exercise price. National insurance charge will only apply if the shares are readily convertible assets.

Capital gains tax will apply on the disposal of such shares.

With regards to the company, if the market value of the shares at the date of exercise of the option exceeds the market value of the shares at the grant of the option, a corporation tax deduction will be available based on this difference.

Contact

If you would like to find out more about how your business can benefit from the EMI share option scheme, please do not hesitate to call us on 01628 760000 or email kcheong@donaldreid.co.uk.

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