

Enterprise Management Incentive Plans



Enterprise Management Incentive Plans provide for the grant of flexible, tax-advantaged share options and are designed for growing companies with fewer than 250 employees and gross assets not exceeding £30 million;

EMI options can be granted at a discount to market value;

Eligible employees can receive EMI options worth up to £250,000 in any three-year period.

WHAT ARE ENTERPRISE MANAGEMENT INCENTIVE PLANS?

Under an Enterprise Management Incentive (EMI) Plan a company can grant tax-advantaged share options to selected employees. The rules governing the terms of EMI options are very flexible which means they can be tailored to deliver the desired incentive and reward. The exercise price of an EMI option can be at, above or below the market value of the shares at the time the option is granted. Unlike other forms of tax-advantaged share incentive, an EMI option does not have to be held for a set period of time to receive favourable tax treatment on exercise.

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WHAT IS THE TAX TREATMENT OF AN EMI OPTION?

There is no income tax or charge to National Insurance Contributions (NICs) on the exercise of an EMI option if it has been granted with an exercise price equal to or in excess of the market value of the shares on grant. Instead, such shares will only give rise to capital gains tax as and when they are sold after using any available allowance and reliefs (including entrepreneurs' relief).

Where an EMI option has an exercise price lower than the market value of the shares on grant, income tax (and usually NICs) will be payable on the discount but not until the option is exercised.

If a disqualifying event occurs (such as the individual ceasing to be an employee) then an EMI option will lose some of its tax advantages. However, as long as the option is exercised within ninety days of such an event the favourable tax treatment described above is preserved.

WHAT DOES A COMPANY NEED TO DO IN ORDER TO ESTABLISH AN EMI PLAN?

Although EMI Plans can be drafted flexibly, there are strict requirements for companies seeking to

grant them. These include limits on the number of employees within the company (fewer than 250), its gross assets (not exceeding £30 million) and the type of trade it carries out. It is however possible to seek prior clearance from HM Revenue & Customs (**HMRC**) of the company's eligibility to grant EMI options.

EMI options are granted under an agreement between the company and employee and are subject to the EMI Plan rules. Board resolutions will and shareholder and/or banking approval may be required to establish an EMI Plan.

An EMI Plan must be registered online with HMRC and the grant of EMI options must be notified to HMRC electronically within ninety-two days if they are to qualify for favourable tax treatment. Once a company has established an EMI Plan and registered it with HMRC it will have an obligation to file annual online returns with HMRC.

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FOR FURTHER INFORMATION, PLEASE CONTACT



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