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Inspiring. Independent. Trusted.

We work collaboratively with our clients and their advisors to support the implementation and ongoing administration of a diverse range of employee incentive arrangements.

Enterprise Management Incentives (EMI)

Working in Partnership with Employers



What are EMI share options?

An EMI share option plan is a UK tax-advantaged plan for trading companies with gross assets of less than £30m and less than 250 employees.

For companies who qualify it is a popular form of employee share plan because it is very flexible and can be designed to meet the particular needs of each business, its owners and its employees. Also, the tax reliefs available to the participant and to the company are generous.

Wherever there is a shared belief in the growth potential of the company the right of an option holder to realise the value of that growth, at very low tax rates, can be a powerful incentive. This is particularly so where a sale or flotation of the company may be considered once that growth is achieved.

? How does an EMI plan work and what design choices are there?

The employer gives the employee a formal option agreement giving him the right to acquire shares in the employing company (or in the case of a trading group, the parent company).

There is a range of design choices open to the employer:

- > The employer can select whichever employees he wishes to participate in the plan;
- > The exercise price set out in the option agreement may be whatever amount the employer chooses;
- > The employer may, if he wishes, impose conditions that must be met before the options can be exercised (e.g., meeting business targets, etc.);
- > The employer may, if he wishes, provide that the option can be exercised only within a specified period (of up to 10 years) from the date of grant;
- > The employer may, if he wishes, impose further conditions such as “good” and “bad” leaver rules to ensure that those who leave for “good” reasons (e.g., illness, redundancy, retirement, etc.) may exercise some or all of their options, while those who leave for “bad” reasons (e.g., to leave to join competitors) lose their options;
- > If the current owners do not wish employees who exercise their options to have votes, or rights to dividends, or to any particular proportion of capital on an exit, the shares put under option may be of a special class designed to achieve this;
- > The option may be to subscribe for new shares on exercise, or to buy existing shares from other shareholders (such as the controlling shareholders or an employee benefit trust, and so on).

The main conditions for EMI tax relief are as follows:

This is a brief summary and should not be relied on alone.

- > The gross assets of the company must not exceed £30m when the options are granted;
- > The company or group must have less than 250 full-time employees;
- > The employer must carry on a trade in the UK. Most types of trade are permitted but some types are excluded from the plan such as property development, financial services, farming, etc.;
- > The company must not be under the control of another company;
- > Participation in the plan is limited to full-time employees;
- > Any employee who already owns more than 30% of the company is excluded;
- > The total value of shares put under option to any one employee is limited to £250,000;
- > The total value of shares put under option to all employees is limited to £3m;
- > The EMI plan must be registered with HMRC;
- > Each option must be notified to HMRC within 92 days of the grant;
- > If there is a “disqualifying event” (for example, the employment is terminated or the company comes under the control of another company) the option must be exercised within 90 days of the event, otherwise the tax relief on any later exercise is less advantageous.



Advantages for the employees:

- > There is no tax or national insurance contributions (NIC) charge on the grant of the option;
- > If the exercise price is at least equal to the market value of the shares at the date of grant, no income tax or NIC is due on exercise of the option. Otherwise, income tax and NIC are due on exercise but only on the excess of the value of the shares at the date of grant over the exercise price;
- > If the value of the shares increases between the grant and exercise that gain is not charged to income tax or NIC on exercise;
- > When the employee sells the shares capital gains tax will be due on any gain realised on that sale, normally with the benefit of "entrepreneurs relief" (so that the tax rate is only 10% for the first £1m of gains realised and 20% on any excess above that);
- > In a private company, at the time of grant the market value of the shares for tax purposes would normally involve a very substantial "minority discount" (often in the range 60% to 90%) from the "pro-rata" value of the shares. But on a sale of the company no such discount would apply. The potential for low-taxed gains on a corporate exit is therefore substantial even if there is little or no growth in the value of the company itself;
- > HMRC will agree a valuation of the shares in advance of the grant of the option so that the employer and employee can have certainty on the tax treatment on exercise of the option.



Advantages for the employer:

- > Giving the employee this valuable benefit may reduce pressure for pay rises or bonuses or other cash remuneration;
- > On exercise of the option, the company will normally benefit from a deduction from its profits in calculating its corporation tax liability, equal to the employee's gain, even though the company does not incur any cash cost in providing the benefit.

Why Choose Fiduchi?

Working in partnership with you



Independence

As a management-owned business, Fiduchi is well positioned to provide flexible solutions to clients. In addition, our independence allows us to work with the best advisors, and other third parties, for each individual client.



Experience

As a core Fiduchi service, the Employee Incentives Team has vast experience helping a broad range of employers achieve their employee attraction, retention and motivation goals through their incentive arrangements.



Personal Service

We believe in the value that a personal approach to client servicing brings. Clients have clear lines of communication with team members who understand their specific requirements.



Scope of Service Offering

With true expertise in each area of our service offering we are uniquely positioned to apply our solutions driven approach to satisfy multiple service requirements in a seamless manner.



Regulation

Services are provided from Jersey and London giving clients the comfort that stable, well regulated jurisdictions, which have been at the forefront of employee incentives servicing for decades, brings. Fiduchi Limited is regulated by the Jersey Financial Services Commission.

If you would like to know more about our Employee Incentives or about Fiduchi, please contact:

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