

# Enterprise Management Incentives & Other Employee Share Plans

Share Plans give Directors and Employees the opportunity to acquire shares in their company on advantageous terms. Share and share option plans that are approved by HM Revenue & Customs offer tax and national insurance contributions advantages. Other plans can be designed to ensure that employees are subject to CGT (possibly with Entrepreneurs' Relief) rather than the more onerous income tax/NIC.

- **Attract** Having an equity awards system in place can be extremely attractive, particularly when the company is perceived as having strong growth prospects. This additional benefit helps attract key industry players to the company as it allows them to participate in the future enterprise value. Having an employee share plan demonstrates that you are keen to engage employees in adding value and this can really help not just in attracting talent, but also in attracting investors.
- **Motivate** Providing ownership rights to your staff will often mean people start thinking and feeling differently about the business. Their interests become aligned with those of the existing shareholders as they are further incentivised to increase share value. Enhanced engagement helps to create a shared vision of the future. This can lead to a more productive and efficient working environment.
- **Reward** Why use a share plan instead of a more traditional cash bonus? The truth is different types of awards will be appealing to different people at different times so you should include various elements in your total reward offering. Share plans can provide significant tax advantages and benefit cash flow. Performance conditions can be attached to share awards to ensure growth is heading in the right direction, sustainably, overtime and not just short-term.
- **Retain** For many companies, individuals are the key to success. This makes staff retention vitally important. Time-based and/or other performance conditions can be attached to many awards to ensure key people stay with the company and achieve your longer-term goals.
- **Succession** The use of employee share plans can provide an excellent mechanism for slowly passing share capital into the hands of successors in a tax efficient manner. Using performance conditions can help to ensure that successors are ready to take the reins.

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# Employee Share Plans – simple comparison

SHARE PLAN	KEY FEATURES	SUMMARY TAX TREATMENT
<b>Enterprise Management Incentive (EMI) Share Options</b>	<ul style="list-style-type: none"> <li>Available to employees of independent trading companies with gross assets &lt; £30m.</li> <li>Employee must work 25 hours per week /75% of their working time for the company.</li> <li>Options can be granted at or at discount to market value at grant.</li> <li>Options can be subject to the employee meeting performance criteria, and normally lapse on leaving the company.</li> <li>Exercise can be allowed in stages or only on exit.</li> </ul>	<ul style="list-style-type: none"> <li>No tax or NIC grant or on exercise (unless discounted).</li> <li>If discounted, income tax is payable on the discount at the time of exercise.</li> <li>On disposal, capital gain is calculated on disposal proceeds less price paid for the shares on exercise. Entrepreneur's Relief will be available which will reduce the capital gains tax rate to 10%.</li> <li>The company can claim a CT deduction on the gains made by employees.</li> </ul>
<b>Unapproved Share Options</b>	<ul style="list-style-type: none"> <li>Appropriate where employee/company does not meet EMI qualifying criteria.</li> <li>Not constrained by legislation and allow flexibility.</li> </ul>	<ul style="list-style-type: none"> <li>Attract income tax on exercise on the increase in value between grant and exercise.</li> <li>CGT charge on any subsequent gains.</li> <li>The company may receive a CT deduction on the gains on exercise.</li> </ul>
<b>Growth/Flowering Shares</b>	<ul style="list-style-type: none"> <li>Shares issued to employees of a new class which allow employees or other individuals to benefit only over a certain value on exit.</li> </ul>	<ul style="list-style-type: none"> <li>Provided employees pay market value for the shares on acquisition (normally a low value may be justified) the whole gain is subject to capital treatment as opposed to income tax treatment.</li> </ul>
<b>Nil/Partly Paid Shares</b>	<ul style="list-style-type: none"> <li>Issue of nil or partly paid shares allows individuals to participate without initial financial outlay. Some or all of the issue price is paid later or in stages.</li> <li>The unpaid element could be part of the share premium or the nominal value of the share.</li> </ul>	<ul style="list-style-type: none"> <li>Income tax charge may arise as if the company has made a beneficial loan to the employee.</li> <li>Income tax charge will also arise if there is a discount to market value on the price payable.</li> <li>If the shares are transferred without being fully paid up, this will create an employment income tax charge on the deemed forgiveness of the loan. CGT charge on overall gain.</li> </ul>
<b>Employee Shareholder Shares</b>	<ul style="list-style-type: none"> <li>Employees give up certain employment rights (including unfair dismissal rights, the right to statutory redundancy pay and the right to request flexible working) and can acquire shares worth between £2,000 and £50,000 with certain tax advantages.</li> </ul>	<ul style="list-style-type: none"> <li>The first £2,000 of shares gifted is exempt from income tax and NIC on allotment.</li> <li>ESS shares worth up to £50,000 at the time of issue will be exempt from capital gains tax on any increases in value.</li> </ul>
<b>Long Term Incentive Plans (LTIPs)</b>	<ul style="list-style-type: none"> <li>Employees are given options to acquire shares at a certain price and they benefit from the increase in share price over the option period. Shares are held in trust until satisfaction of certain performance targets.</li> </ul>	<ul style="list-style-type: none"> <li>The employee is taxed on the market value of the shares as soon as the conditions are met and released to employees. No real tax advantages to LTIP but they provide strong incentive for employees to remain in the company.</li> </ul>

## Interactions with Entrepreneurs' Relief

Gains realised through an EMI automatically qualify for ER. Other gains subject to CGT will qualify subject to the normal criteria (mainly, holding of >5% for at least 12 months by employee or officer of the company, which must be a trading company).

## CONTACT DETAILS

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