Briefing Notes

Mercer & Hole

SHARE SCHEMES

We offer advice on a variety of different share schemes, assessing the best solution for you

We can offer tax advice and supporting valuations on the following share schemes:

- Enterprise Management Incentive Scheme (EMI)
- Growth/Hurdle Shares
- Company Share Option Plan (CSOP)
- Share Incentive Plan (SIP)
- Joint Share Ownership Plan (JSOP)
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Enterprise Management Incentive Scheme (EMI)

EMI schemes are the most flexible tax favoured share options available to small businesses and consequently the most popular. They offer significant tax benefits to both employers and employees.

Growth/Hurdle Shares

Growth/Hurdle Shares are an alternative or supplement to share options, or indeed can be provided as option shares. They are typically a separate class of shares entitling the holders to benefit only in the event of the growth in value of a company. Growth Shares are typically used where share values are high and / or in non-trading companies.

Company Share Option Plan (CSOP)

A CSOP provides a tax efficient and relatively flexible way to reward selected employees and directors. CSOPs tend to be used where EMI is not available, normally due to the nature of the trade.

Subject to meeting some detailed requirements an employer may grant options on a tax-favoured basis. Either the grant and/or exercise of the option can be subject to objective performance conditions applying to the company, the department or the individual. The conditions to be met include:

- The company must be an unlisted trading company that is not under the control of another company
- The company may grant options to selected (including part-time) employees and to full-time directors
- The shares must be ordinary, fully paid and non-redeemable
- The options must be exercised between three and ten years from the date of grant
- Options must be awarded at not less than fair market value at the date of grant, as agreed with HMRC.

Share Incentive Plan (SIP)

A SIP offers a tax efficient route for companies to reward its employees with free shares and allow them to acquire further shares on a tax advantaged basis if they so wish. A SIP is not a selective scheme it has to be available to all employees.

Broadly, a SIP provides for three main types of shares to be made available each year:

- Free Shares with a value up to £3,600– acquired at no cost
- Partnership Shares with a value of up £1,800– acquired out of pre-tax salary
- Matching Shares – acquired at no cost based on a 2:1 ratio on partnership shares purchased.

Free and matching shares must normally be held in a trust for a period of 3-5 years. At the end of that time, employees can sell the shares if they wish. Employees can also elect for cash dividends on shares held in the SIP to be reinvested tax-free in more shares.

The SIP operates with a trust funded by the company, which will acquire and hold the shares in the SIP on behalf of the participants.

The benefits to the employees are that Income tax and NIC are not chargeable when shares are awarded to them, shares may be bought out of pre-tax income and re-invested dividends are not taxable.

For the employer company, there is corporation tax relief for the costs of setting up and running the SIP, including for the value of free and matching shares awarded to employees.

All employees must participate on the same terms. The purpose of the SIP must be “to provide benefits to employees in the form of shares in a company which gives them a continuing stake in that company.”

Joint Share Ownership Plan (JSOP)

JSOPs are a potentially favourable route for companies who want to incentivise employees by way of growth in share value in much the same way as Growth/hurdle Shares. JSOPs deliver value on growth achieved by incentivising employees to work towards increasing company value and so generate value for both the employer and the employees.

One benefit is that JSOPs do not require significant changes to share rights and articles of association. However, the structure does require a share trust to be established and requires other detailed legal paperwork.

The co-owner and the employee enter into a ‘joint ownership agreement’ setting out the terms on which the shares are held, governing proceeds on an exit, dividends and votes as well as covering the position on leavers. The interests can be performance linked.

Valuation is key to ensuring a JSOP functions as expected both commercially and in terms of tax outcomes.

JSOPs require detailed thought and planning before implementation to ensure they are executed correctly and are suitable for all parties. They require a co-owner, and its acquisition of the shares has to be funded. There are also corporate tax and significant company law issues that need to be considered.

We can offer you advice on any of these share schemes along with advising on the share structure, performing any necessary requirements to ensure eligibility and assisting you to maximise your tax benefits.