

CAPITA

Enterprise

Management

Incentives (EMI)



General Features

The main features of EMI are:

- A qualifying company will be able to grant EMI options to a maximum of £3m.
- Each employee will be able to hold unexercised options over shares worth up to £120,000 at the time of grant. In addition, there is a maximum limit of £120,000 over a three-year period starting with the date of grant of the options, which took the employee to the limit. Employees with £120,000 of EMI options who exercise those options within three years of that date are not able to 'top up' their EMI options until the three-year period has expired.
- To qualify, the company must be an independent company trading in the UK, with gross assets not exceeding £30m and fewer than 250 employees. There is no requirement for the company to be resident in or incorporated in the UK, but to qualify for EMI, the company's trading activities must be carried on wholly or mainly in the UK.
- The company can be quoted or unquoted.
- There is no plan approvals procedure – companies will enter into individual EMI share option agreements with each employee, which will be notified to HM Revenue & Customs.
- There will normally be no tax or National Insurance (NICs) for the employee to pay when the options are exercised; nor will there normally be any NICs charge on the employer.
- When the shares are sold, the gain arising will be subject to Capital Gains Tax (CGT). Any gains of less than a specified amount (£10,600 in the 2011-2012 tax year) are free from CGT.
- Only businesses with fewer than 250 employees are able to operate EMI.

Eligibility

A qualifying company can grant EMI options to any number of employees. EMI options can be granted to any employee who controls less than 30% of the ordinary share capital of the company. In arriving at the percentage, shares that are still under option will be disregarded. Employees can also hold options under HM Revenue & Customs approved CSOP but these will count towards the £120,000 limit.

Employees will be eligible for EMI options if they are employed by the company or group for at least 25 hours a week, or, if less, for at least 75% of their working time.

The Qualifying Options and their Tax Treatment

There will be no income tax or NICs to pay when an EMI option is granted. A company is able to set its own exercise period. To qualify for the income tax and NICs relief companies must however ensure that the options they award are capable of being exercised within 10 years of the date of grant and are actually exercised within that period.

As long as companies grant options over shares with an exercise price set at the market value of the shares at the time the options are granted, there will be no income tax or NICs charge when the employee exercises the options (provided the exercise takes place within 10 years of the grant).

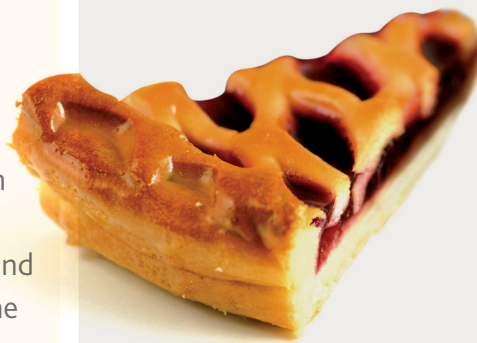
To provide extra flexibility to employers, it will be possible to limit voting rights, provide pre-emption or set other conditions in respect of shares that will be acquired on the exercise of an EMI option.

Companies can award options over restricted and conditional shares to provide flexibility to impose performance conditions and ensure that they can manage what becomes of their shares. Details of the restrictions and conditions must be set out in the employee's EMI option agreement. The normal tax and NICs rules apply when conditions or restrictions are lifted.

At any one time employees may hold EMI options with a value of up to £120,000 at the date of grant. An employee who is granted options above that limit will still be able to obtain relief under EMI only on options up to the limit.

Companies that provide EMI options to their employees will be able to deduct the cost of setting up and administering the necessary arrangements when computing their corporation tax profits.

Certain disqualifying events may remove the EMI plan tax advantages. However, there is normally a tax-relief of 40 days prior to this being imposed.



How to operate an EMI

The administrative arrangements for EMI have been kept to a minimum in order to keep down costs for employers – no approval arrangements will be in place, instead employers will just notify HM Revenue & Customs of the grants of EMI options that they make.

Each grant will have to be covered by a written agreement between the company and the employee specifying:

- The date of the grant
- That the shares were granted under the provisions of EMI
- The number, or maximum number of shares under the EMI option
- The market value of the shares at the date of grant
- The exercise price
- When and how the options are to be exercised
- Details of any restrictions or conditions attaching to the shares
- Details of any performance requirements

Companies must notify HM Revenue & Customs of the grant of EMI options within 92 days of the grant being made.

Any share valuations required in connection with EMI will normally have to be agreed with HM Revenue & Customs Shares and Assets Valuation.

Within 3 months of the end of each tax year companies whose shares are the subject of a qualifying EMI option will have to make a return to HM Revenue & Customs.

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