Stephens Scown

Which Employee Share Scheme is right for your business?

WHAT ARE SHARE SCHEMES?

Employee share schemes can be a highly effective and potentially tax efficient method of incentivising employees. Typical examples involve giving shares to employees, allowing employees to buy shares, offering employees options to buy shares after a period of time or subject to performance criteria, or a combination of these options depending on the circumstances.

Tax-advantaged share schemes

Enterprise Management Incentive (EMI)
Company Share Option Plan (CSOP)
Save As You Earn (SAYE)
Share Incentive Plan (SIP)
Employee Ownership Trust (EOT)

Enterprise Management Incentive (EMI)

EMI options are the most popular tax-advantaged share option plan as there is no income tax/NICs on the grant or exercise of the option and business asset disposal relief can be available on sale providing a potential tax rate of merely 10%. They are specifically designed for small, higher-risk trading companies.
In order to qualify the company must:

- *Have gross assets of no more than £30 million*
- *Not be under the control of another company*
- *Have fewer than the equivalent of 250 full- time employees*

In order to quality, the employee must:

- *Be employed by the company for at least 25 hours a week*
- *Or if less than 25 hours, spend 75% of their working time at the company*
- *Own 30% or less of the share capital*

This option benefits from hugely favourable tax treatment. Shares acquired may also qualify for business asset disposal relief (formerly entrepreneurs' relief), a corporation tax deduction may be available, and the deduction is equal to the gain that the employee makes.

The options should be capable of being exercised within ten years of the date of grant but are otherwise flexible in terms of exercise criteria. This flexibility allows EMI schemes to be used for exit-only arrangements as well as arrangements with performance conditions.

An EMI scheme provides further flexibility as options may be granted over different classes of shares. For example, it is possible to grant an EMI option over a separate class of non-voting shares.

Motivate your employees leading to improved productivity

Recruit new talent and retain valuable employees

Reduce employment costs

Company Share Option Plan (CSOP)

A CSOP can provide a tax efficient and flexible way to reward selected employees, managers and directors. Companies self-certify that the HMRC requirements for the scheme are met. CSOPs are great for smaller family-managed or owner-managed companies as only selected employees need be included.

Statutory provisions:

- *The company whose shares are under option must be listed on a recognised stock exchange OR free from the control of another company*
- *The options can be granted by the employer or a parent company*
- *The shares under option must be ordinary share capital*

CSOPs work by allowing companies to grant share options to their employees. There is no income tax or NIC payable by the employee on the grant of the option, or on the exercise of the option. The options can be exercised any time between three and ten years after they have been granted. Tax free exercise within three years may be permitted in the event of an employee leaving in extenuating circumstances such as illness or disability. These options can be granted over shares with a total value of up to £30,000 (market value).

Save As You Earn (SAYE)

There are two key elements to a SAYE option scheme:

i) *a saving arrangement*
ii) *a share option*

The scheme provides for the grant of share options. The exercise price can be up to a 20% discount on the market value, at the time it is granted. Participation must be available to all employees. SAYE option schemes are most often used by listed companies but larger private companies may also use them.

The grant of the share options is subject to the employee entering into an HMRC-certified savings arrangement. This requires the employee to save between £5 and £500 per month for three or five years. The accumulated savings can be withdrawn at the end of the savings period or be used to exercise the option and purchase the shares.

Share Incentive Plan (SIP)

SIPs allow companies to invite eligible employees to acquire shares in the company. The shares are held in an employee benefit trust. It is a flexible scheme allowing all employees to participate and employers to reward strong performance.

Employers can give employees up to £3,000 of shares each year, tax free. Employees can also purchase up to £1,500 of shares from their pre-tax, pre-NIC salary.

The company will obtain corporation tax relief for the costs incurred in providing shares. The plan is limited to £9,000 worth of shares per employee each year.

The trust can function like an internal market within a private company and the plan can work alongside discretionary schemes to provide further incentives for staff.

Employee Ownership Trust (EOT)

Shareholders can sell a majority shareholding in the company to an EOT formed by the company which holds the shares in trust for the benefit of all employees of the company.

The sale of shares is usually funded by a combination of cash reserves and future profits of the company. The selling shareholders pay 0% Capital Gains Tax on the sale and all employees can benefit by a profit related bonus of up to £3600 free of income tax each year.

An EOT can function alongside direct ownership of shares and other share incentive schemes to facilitate both the desire to share the success of the company with all employees while providing enhanced performance objectives and rewards for leaders and management.

Stephens Scown pioneered employee ownership in the legal sector and now provides specialist support to businesses of all sizes across the UK. For more information see the Employee Ownership section of our website.

Non tax-advantaged share shemes

There are a range of non tax-advantaged share schemes available such as the Long Term Incentive Plan, Joint Ownership Arrangements, Employee Benefit Trusts, or uncapped share option schemes. We can help you explore whether any of these are more suitable for your business.

How Stephens Scown can help you

- *Advise on complex share structures*
- *Help create a plan to match your commercial objectives*
- *Design scheme rules and share option agreements*
- *Draft the documentation and manage the process*
- *Prepare an explanation of the documents for employees*
- *Prepare board minutes and shareholder resolutions*
- *Liaise with your accountant regarding any valuations or HMRC reporting requirements*

Why Stephens Scown?

Stephens Scown LLP is a regional firm acting across the country for national clients. With over 50 partners and 300 staff across its offices in Exeter, Truro and St Austell, we are one of the largest law firms in the South West and ranked in the top 150 in the UK.

We have supported many companies through the process of setting up Employee Share Schemes and we have seen the success that follows when people feel motivated to work hard for a business that they have a stake in. We are all business owners ourselves due to our innovative “Scownership” scheme.

We have an inclusive and supportive culture, and we live and breathe our values which are reflected in everything we do – from the people we recruit to the way we service our clients. The firm has been ranked in the Sunday Times 100 Best Companies to Work For list for six consecutive years.

If you would like to learn more about how Stephens Scown can help you discover if an employee share scheme is right for your business then please contact our Corporate Team on 0345 450 5558.

www.stephens-scown.co.uk