



# tax | EMI - enterprise management incentives

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## what is an enterprise management incentives (EMI) scheme?

If correctly constructed EMI schemes allow an employer to issue share options to employees in a tax efficient manner which both rewards them for good performance and encourages them to stay with the business.

## what are the benefits of EMI?

EMI allows a company to reward employees without immediately diluting the holdings of existing shareholders and encourages staff loyalty and long service. The scheme is relatively simple (and therefore cost effective) to implement and avoids the immediate tax and national insurance costs involved in giving away shares to employees. Additionally, the company will enjoy a tax deduction based on the value of shares awarded when the options are exercised.

EMI share options can be significantly more tax efficient for employees compared to unapproved options. Any gain in the value of the shares after grant is taxed as a capital gain (at 18%) as opposed to income (at potentially 40%).

## do I qualify for EMI?

The detailed rules for qualification can be complicated. Listed below is a guide to help determine whether your company, employees and shares qualify.

### the company

- the scheme must be established to attract or retain employees
- gross assets of the company or group must not exceed £30m
- the aggregate value of the shares under option must not exceed £3m
- the company must not be controlled by another company, however, employees of subsidiary companies may be granted options in the holding company
- the Company or Group must employ less than 250 full time (or full time equivalent) employees
- must be a trading company but a few trades are excluded, including dealing in land, property development, leasing, certain financial activities, farming and operating or managing hotels

### the shares/options

- shares must be fully paid up, non-redeemable ordinary shares
- exercise must be within ten years
- the option cannot be assignable

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## the employee

- must be an employee and at least work 75% of their working time for the company
- must have no material interest in the company
- may not hold EMI options over shares with a value greater than £120,000 when granted

## other considerations

**setting the exercise price:** the company must consider the current market value of the shares on which the scheme is to be based and decide whether the exercise price should be set at this value or at a premium or discount. If the exercise price is set at the current value or at a premium, there will be no income tax to pay on exercise regardless of the value of the shares at that time. If the exercise price is set at a discount or "for free" there will be income tax and national insurance to pay on the discount, or, if free, the value of shares at the time of grant.

**setting the vesting period:** nearly all EMI schemes include "exit events" such as a trade or company sale as a vesting condition; however, you may wish to allow the employees to become shareholders after a certain period of time or on meeting performance targets. Remember EMI schemes can be tax efficient, but they are not for everybody. There are other incentive schemes that may be more suitable for you, and as with the issue of any option, this may effect results in your financial statements.

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