

# ENTERPRISE MANAGEMENT INCENTIVES

## THE ASTUTE WAY TO RECRUIT AND RETAIN GREAT STAFF

“ Our experience with Wellers was a very positive one. They helped us to understand and evaluate the alternative approaches that were available and once we decided that EMI was the most suitable share option scheme for us, they guided us through the whole process, providing all supporting paperwork and clear explanations for both the directors and the employees. They provided excellent practical advice throughout, including dealing with the issue of share valuation and helped us to secure the result we wanted without any disruptions or dramas!

The directors, shareholders and employees are delighted with the scheme and its associated tax benefits. ”

**Martin Lamb, Chairman of the Board**  
Enval Limited

The recruitment and retention of employees is vital to an organisation's future growth and success. While a company is owned by shareholders, it is often said that the employees are its greatest asset. Their knowledge, relationships and expertise are fundamental to the day-to-day running of the business. Many owners of fast growing companies will want their management and key staff to remain loyal to the company so as to achieve the desired future growth and profitability.

But how do you go about achieving this when a job is no longer for life and people move positions regularly to advance their career and income? To get the best from your employees, you have to reward them appropriately. The Enterprise Management Incentive Scheme is designed to allow staff to benefit from the performance and potential future sale of a business as a means of reward for their hard work.

### How do Enterprise Management Incentives work?

Enterprise Management Incentives (EMI) are a type of share option scheme that allow you to provide tax advantageous incentives to your key employees. Your employees are granted the option to purchase shares and become stakeholders in the business in the future. A price (which is known as the exercise price) for the shares is set and this is fixed as part of the arrangement. Your employees then exercise their options either at a pre-determined date, or, on the occurrence of a specific event being often a sale or flotation of the company. They benefit because it is expected that over the course of time, the value of the shares increases above the level originally set as the exercise price.

### The advantages of EMI Schemes

The benefits of EMI are:

- You can set the exercise price at your own discretion but to enjoy the tax benefits it must be at or above market value at the date the option is granted
- There is then no Income Tax or National Insurance contributions on the grant or exercise of the options
- It allows the company to reward employees without immediately diluting existing shareholders' ownership of the company
- The disposal of shares acquired through the EMI Scheme is subject to Capital Gains tax and could qualify for Entrepreneur's Relief meaning any gain may be taxed at 10% but at worst at 28%, a lower rate than Income Tax and National Insurance at 42%-52%
- The scheme is simple to implement as there is no PAYE, employee or employer National Insurance contribution liability that can arise on awarding shares or unapproved options to employees
- A corporation tax deduction for the employer company equal to the employee's gains is applicable, whether any costs are incurred or not



## Considerations

You can attach individual performance conditions to the exercise of each option, meaning EMI can be used as a bespoke employee incentive. Often employers impose a minimum limit of 2 or 3 years, but, there is no minimum period for when the options can be exercised. There is a maximum exercise period of 10 years but, if an option holder leaves before exercise, their option will usually lapse. Unlisted companies need to establish the market value of the shares that will be placed under option before EMI options are granted. You can set any exercise price, however, the market value needs to be agreed with HMRC, if the exercise price is less than the market value then there are tax consequences.

## Do you qualify?

There are several legal requirements a company must satisfy for its share options to qualify under EMI.

### The employee:

- Must be classified as a full time employee and spend 25 hours a week or 75% of their working time for the company
- Must have no more than a 30% interest in the company
- May be offered options over shares worth up to £250,000 only at the date of the grant (this is the limit that applies to all options granted within three years)

### The company:

- The scheme must be established to attract or retain employees
- The company must be independent
  - In the case of a group of companies, the options must be for shares in the parent company
- The aggregate value of the shares under option must not exceed £3 million
- Gross assets for the company (or group) must not exceed £30 million
- Total number of full time employees must be less than 250 when the share option is granted
- The organisation must have a permanent establishment in the UK at the date the EMI options are granted
- The shares used for EMI purposes can be subject to restrictions, but they must be ordinary shares which are "fully paid up" (for company law purposes) and not redeemable or convertible
- The company or group must carry on a qualifying trade

## What is a qualifying trade?

A "qualifying trade" is one that is carried out for the purpose of making a profit. Most businesses will be eligible, however, there is a list of non-qualifying activities which include:

- property development
- financial trading
- leasing
- dealing in land

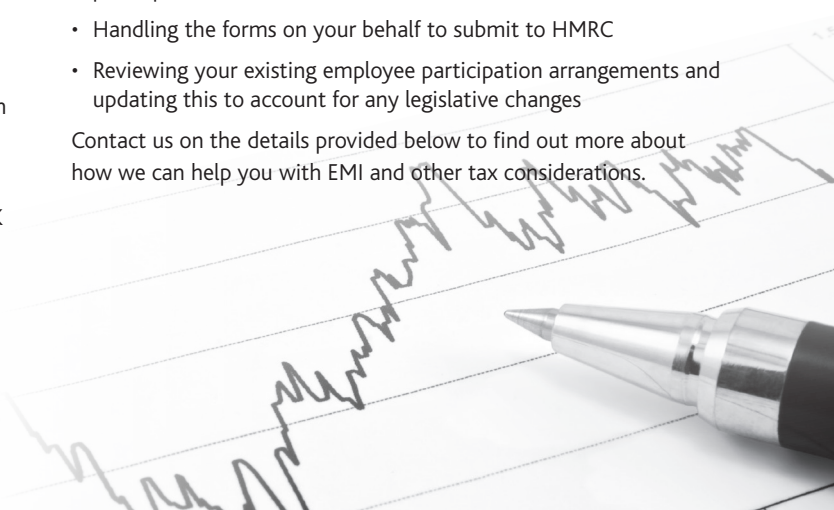
Receiving royalties and licence fees are usually non qualifying. However, this is not the case where most of the income is generated from intellectual property that was created by the company itself.

## How Wellers can help you

We can advise from setting up an EMI scheme through to the employee(s) selling their shares. Our team alleviate the time, burden and hassle for you by helping with the following:

- Assessing your company and employee circumstances to then advise if EMI is the right option for you
- Conducting a review of your company's financial position to ensure all EMI rules are met
- Liaising with HMRC on your behalf to agree the market value of the shares
- Creating the scheme rules and a company standard options agreement for application in future EMI awards to staff
- Drafting individual option agreements and a document that communicates how the scheme works for potential employee participants
- Handling the forms on your behalf to submit to HMRC
- Reviewing your existing employee participation arrangements and updating this to account for any legislative changes

Contact us on the details provided below to find out more about how we can help you with EMI and other tax considerations.



Wellers are a breath of fresh air for those looking for accountancy services and professional advice. Whether working with a major business, a smaller enterprise or a private client Wellers are more than merely number crunchers. It's something our clients refer to as Business Oxygen - integrated professional services and management tools bonded with the chemistry of a trusted relationship. The success of our long lasting client relationships is based on this combination of shared goals, integrity and trust. Based in the South East and established 70 years ago, Wellers provide a comprehensive range of accountancy and business advisory services. Partners work integrally with each client to achieve their business objectives.

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