

Employee Share Incentives

Services offered by Mills & Reeve LLP

Employee share incentives can be a vital tool when responding to the challenges and opportunities faced by a business. A company might use employee share incentives to pursue some or all of the following goals:

- to recruit and retain key staff;
- to motivate staff to deliver improved performance;
- to provide rewards and incentives while limiting the outlay of cash;
- to provide tax-efficient forms of reward and remuneration; and
- to influence the culture of the business by making employees stakeholders.

Our clients

We act for:

- early stage businesses (especially in the high-tech, bio-tech and clean-tech sectors);
- owner-managed businesses;
- VC-backed businesses; and
- quoted companies (including AIM companies and fully listed companies).

Our approach

We aim to tailor our approach to your circumstances and objectives.

We offer a fixed price “off the peg” service where a private company is working towards a sale or flotation and wants a share option plan to deliver value to option holders only when an exit is achieved. Our standard form plan rules reflect years of experience and are at the heart of a “quality without frills” service for those working to a tight budget.

Where appropriate, we offer a “bespoke” service involving separate design and implementation stages. We work with you, based on an understanding of your circumstances and business goals, to identify suitable arrangements and provide you at an early stage with an estimate of costs.



Products

We regularly advise on:

- Enterprise Management Incentives (EMI) options;
- HM Revenue & Customs (HMRC) approved share plans;
- share option and share purchase arrangements for employees where no special tax privileges apply;
- long-term incentive plans (LTIPs); and
- employee benefit trusts.

We can help you with joint share ownership plans, phantom share schemes, share options for non-executive directors and consultants, salary sacrifice arrangements, bonus schemes and, needless to say, the share scheme aspects of company and business sales and termination of employment.

“The team combine technical skill with a practical approach”

Chief Financial Officer, Metalys Ltd

Common issues

The kinds of commercial, legal and tax issues on which we provide guidance to clients include:

- Tax: the top rate of income tax is rising to 50 per cent. So a share-based award which delivers value taxable as a capital gain at only 18 per cent is highly attractive. Can you introduce tax-favoured arrangements?
- Leavers: should early leavers be able to benefit under the arrangements? If so, in what way, to what extent and subject to what safeguards?
- Control etc: should employee share arrangements use the same class of shares or a special class of shares (perhaps without voting rights)?
- Liquidity: for unquoted companies, will an internal market be needed or will the value of employee shares be realised on an exit event?

Recent work

- Establishing an employee benefit trust and deferred bonus scheme, incorporating a share-based component, for a FTSE 250 company.
- Advising on EMI option rollover when acting for an unquoted company reversing into an AIM company.
- Advising on the employee shares schemes aspects of a £30 million sale (including obtaining HMRC approval to a change in EMI option plan rules to allow cashless exercise).
- Drawing up an LTIP for an AIM company.
- Introducing share options for senior executives at a private company planning to remain unquoted and independent together with an employee benefit trust to provide a mechanism for share sales.
- Designing and drafting an international cash bonus scheme for two senior executives funded by the shareholders of a global group of associated private companies.
- Establishing an employee share option plan, offering EMI and unapproved options, for a spin-out company.

Expertise

All members of the team are tax specialists as well as bringing multi-disciplinary knowledge of company law, employment law, trust law and regulatory law relevant to employee share plans. If and when necessary, share schemes practitioners can call upon specialists in other teams to assist. Christopher Townsend, Partner, is a member of Share Plan Lawyers.

Meet the team



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