

SHARE INCENTIVE PLANS

by

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The logo for the Institute of Chartered Secretaries and Administrators (ICSA), consisting of a red horizontal bar above the letters 'ICSA' in white serif font on a black background.

ICSA

Types of Plan

- **Option Plans (CSOPs, EMI, SAYE)**
- **LTIPs (conditional & restricted share awards etc.)**
- **Share Purchase Plans (“SIPs”)**

Company Share Option Plans “CSOPs”

- Selected participants are granted rights to acquire shares
- Approved or unapproved
- Performance targets
- Underwater/out of the money
- Frequency of grants

Enterprise Management Incentive (“EMI”) plans

- EMI's were introduced by the Finance Act 2000
- EMI options must be over shares in an independent trading company, which has gross assets not exceeding £30 million at the time the options are granted
- Company limit: subject to a total share value of £3 million under EMI options to all employees.
- Employee Limit: market value of up to £100,000
- No income tax or National Insurance either on the grant or (assuming it was granted at market value) on the exercise of the option.

Savings-Related Share Option Plans

- **Must be open to all employees, including part-time employees, subject to service requirements which must not exceed 5 years.**
- **Employees enter into savings contracts for 3 or 5 years and are simultaneously granted options based on total anticipated savings (which may include interest and bonus).**
- **The proceeds from the savings contract when it matures fund the option price, which is normally discounted by up to 20% of the market value of the shares at the date of invitation or grant.**
- **SAYE schemes are approved by the Inland Revenue.**
- **The option holder does not pay income tax on the grant or the exercise of the option but may suffer a charge to capital gains tax when the shares are sold.**

LTIPs

- **Conditional Share Awards**
- **Forfeitable Whole Share Awards**
- **Deferred Bonus Share Plans**
- **Matching Share Award Plans**

Share Purchase Plans

Share Incentive Plan

- Partnership Shares
- Matching Shares
- Free Shares
- Dividend Shares

Share Purchase Plans cont.

	Free shares	Partnership shares	Matching shares	Dividend shares
Tax on award	None	None – tax relief for salary used to buy shares	None	None
Tax on removal of shares from plan within 3 years of award	On market value when taken out	On market value when taken out	On market value when taken out	Original dividend taxable but in year when shares taken out of Plan
Tax on removal between 3 and 5 years of award	On lower of value at award & value on removal from Plan	On lower of salary used to buy shares & value on removal from Plan	On lower of value at award & value on removal from Plan	None
Tax on removal after five years	None	None	None	None
CGT on removal -any time	None	None	None	None

Other issues

- **Age Discrimination**
 - Unlawful for companies to treat their employees differently on the grounds of age;
 - Many schemes allow age-related discrimination such as preventing employees who are close to retirement from receiving new awards and favouring retiring employees over other leavers.
- **Communication of plans**
- **Accounting issues**

Phantom Share Plans/SARs

- Uses for “phantoms”
- Cash settled SARs
- Equity settled SARs

ABI Guidelines - 1

- **Guidelines cover all share plans**
- **Latest Guidelines published December 2006**
- **Five key principles:**
 - Remuneration policies should promote long term value creation and should be aligned to corporate objectives.
 - Remuneration Committees must oversee remuneration practices and should engage with shareholders on such matters.
 - Remuneration levels should retain and motivate but benchmarking should be treated cautiously to avoid ratcheting effects.
 - Remuneration arrangements should be performance linked, promote alignment with shareholders' interests and be clear and understandable.
 - Payments for non-performance should be avoided.

ABI Guidelines - 2

Share Plans:

- The ABI have given encouragement to Remuneration Committees to consider applying performance periods for long term incentives that are more than the normal three years.
- Pre-grant performance is generally not suitable.
- The guidelines no longer make any distinction between the treatment of leavers by reason of retirement and other "good leavers". This is in order to address age discrimination concerns. The ABI's preference in all such good leaver situations is for there to be time pro-rating of awards for the period to leaving and for performance conditions to apply either over the original performance period or over the shortened period to leaving.
- Dilution limits – The main 5% (executive plans) and 10% (all plans) dilution limits remain unchanged. However the flexibility for very small plcs to apply only the 10% limit has been extended from companies of up to £5m total market cap to companies of up to £10m market cap.

ABI Guidelines - 3

- **NEDs**
- **Discounts**
- **Repricing**
- **42 days grant window**
- **10 year life of plans**
- **3 to 10 year exercise window**

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International Plans

- Real shares or phantom
- Prospectus Directive
- Local tax issues
- complex maze of legal, regulatory and administrative requirements
- Transfer Pricing
- Administration and Communication

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