

EMI options

Whether you're just starting out in business, thinking about selling, or looking to reinvest your sale proceeds, there are plenty of tax issues for you to consider.

Whatever stage you're at, we at Foot Anstey want to help you find the most tax-efficient route.

We've put together this very brief guide for business owners. If you'd like to find out more about any of the issues covered, do give us a call and we'll be happy to help.

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WARNING

The information contained in this guide is for generic use only and cannot be relied upon for any specific transaction. We recommend that specialist professional advice is taken from a member of our tax team before entering (or refraining from entering) into any specific transaction or structure.

What is EMI?

A flexible, tax-efficient share option arrangement aimed at smaller, fast-growing companies.

Who can benefit from EMI?

A company will be able to grant EMI options over its shares if:

- it has gross assets of less than £30m
- it is independent and not controlled by another company
- it employs fewer than 250 people
- it operates mainly in the UK and carries a “qualifying trade” (broadly speaking, “low risk” trades such as farming and financial services are excluded).

Employees of qualifying companies will usually be able to benefit from EMI if they spend at least 25 hours a week working for the company and control less than 30% of its share capital.

Options must be granted over fully paid up, non-redeemable shares in the ordinary share capital of the company – but the shares may have restricted rights, eg non-voting, non-dividend paying.

Options may be granted over shares with a market value of up to £120,000 for each participating employee, with a limit of £3 million per company.

Tax treatment

No income tax or national insurance contributions (NICs) on grant of the options.

No income tax or NICs on exercise of the option (if options are granted at market value).

Capital gains tax at 18% on sale of the shares (entrepreneurs’ relief may be available if conditions are met).

A corporation tax deduction is available to the company on the exercise of the options.