

Insights

UNLOCKING OWNERSHIP: HOW RECENT REFORMS ARE RESHAPING EMPLOYEE SHARE INCENTIVES

Apr 16, 2026

The landscape for employee share incentives in the UK has shifted meaningfully in recent months, and for private company owners and their advisers, in particular, the timing has rarely been better to take a fresh look at Enterprise Management Incentives and Company Share Option Plans, the government's principal tax-advantaged employee share option schemes.

WHAT IS EMI?

The Enterprise Management Incentive (EMI) scheme is widely regarded as one of the most tax-efficient ways for eligible companies to reward and retain key employees. Under EMI, qualifying employees can be granted options to acquire shares in their employer at a price fixed at grant, with highly favourable tax treatment: no income tax or National Insurance on exercise (provided options are granted at or above market value), and Business Asset Disposal Relief potentially available on a sale, reducing Capital Gains Tax to just 18% on qualifying gains.

RECENT EXPANSION OF EMI ELIGIBILITY

One of the most significant recent developments has been the expansion of the categories of company that can participate in EMI. Historically, the scheme has been subject to a number of qualifying conditions, including a gross assets limit of £30 million, a maximum of 250 employees, and a requirement that the company carry on a qualifying trade. Recent legislative changes have substantially broadened eligibility: the gross assets threshold has been increased from £30 million to £120 million, and the maximum number of employees has been raised from 250 to 500, bringing a significantly greater number of companies within the scheme's scope. However, one important restriction remains: the company must be independent at the time of grant, meaning it must not be a 51% subsidiary of, or otherwise under the control of, another company. This independence requirement continues to preclude a significant number of private equity or venture capital-backed businesses from participating in the scheme, where a sponsor holds a majority stake or exercises de facto control. That being said, for company owners who explored EMI in the past and found their business fell outside the qualifying criteria, it is well worth revisiting whether that position has now changed.

COMPANY SHARE OPTION PLANS: A VALUABLE ALTERNATIVE

Where a company does not meet the qualifying requirements for EMI, for example, because it fails the independence test or carries on a non-qualifying trade, a Company Share Option Plan (CSOP) may offer an attractive alternative. CSOPs are available to a broader range of companies and, while historically subject to a relatively modest individual participation limit, recent reforms have increased the maximum value of shares over which a qualifying employee may hold unexercised CSOP options from £30,000 to £60,000. CSOP options are potentially tax advantageous for participants provided all qualifying conditions are met. This includes: no tax on grant, no tax on an exercise in qualifying circumstances (where options are held for three years before exercise or earlier in certain statutory “good leaver” scenarios and certain cash takeover situations), and capital gains tax on the sale of the underlying shares. For many companies, particularly those outside the scope of EMI, CSOPs represent a highly effective incentive tool that should not be overlooked.

THE PISCES CONNECTION: SOLVING THE LIQUIDITY PROBLEM

Perhaps the most transformative development is the introduction of PISCES (the Private Intermittent Securities and Capital Exchange System) and its specific interaction with both EMI and CSOPs.

One of the longstanding criticisms of employee share schemes in private companies has been the illiquidity problem: options may vest and shares may be acquired, but if the company is not listed and there is no imminent sale or other liquidity event (such as an initial public offering (IPO)), employees can find themselves holding shares they cannot easily sell. This can significantly undermine the incentive value of the scheme.

PISCES addresses this directly. The platform (backed by HM Treasury and the Financial Conduct Authority) creates a regulated framework through which shares in private companies can be traded on an intermittent basis. Crucially, the government has confirmed that both EMI and CSOP options can be exercised in connection with a PISCES trading window, giving employees a genuine and structured tax-advantaged route to liquidity without the company needing to pursue a full listing or trade sale. However, it is important to note that a sale on a PISCES platform must be expressly provided for in the option agreement in order for the exercise to retain its tax-advantaged status. A general discretion clause, of the kind commonly found in existing option agreements, will not be sufficient for these purposes. To qualify as a specified event permitting exercise with the benefit of the applicable tax reliefs, a PISCES sale must either be written into the option agreement at the time of grant, or the agreement must be amended to include PISCES as a specified event in accordance with section 16 of the Finance Act 2026. In this regard, 6 April 2028 is a key transitional date: option agreements entered into before that date may be amended at any time to include a PISCES trading event as a specified exercise event, but for any option agreements entered into on or after 6 April 2028, PISCES must be included as a specified event at the time of

grant. Companies with existing option schemes should therefore review their documentation carefully and, where necessary, amend their agreements ahead of that deadline to ensure they are fit for purpose.

WHY ACT NOW?

The combination of expanded EMI eligibility, enhanced CSOP participation limits, and the PISCES liquidity pathway represents a compelling proposition for private company owners. Share ownership is a powerful tool for aligning employee interests with the long-term success of the business, but its effectiveness depends on employees believing they will one day see a real return. With PISCES removing one of the most significant barriers to that belief, the incentive case for tax-advantaged share option schemes has never been stronger.

If your company has not yet implemented an EMI or CSOP scheme, or if an earlier assessment concluded that these schemes were out of reach, now is the moment to revisit that analysis. Equally, companies with existing schemes in place should consider how PISCES might be utilised to provide a structured route to tax-advantaged liquidity for their participants. The legal and tax framework is more supportive than it has ever been.

RELATED CAPABILITIES

- Corporate
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- Tax
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MEET THE TEAM



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