Abbiss Cadres

Tax Advantaged Share Plans
The Share Incentive Plan ("SIP")

BRIEFING NOTE

What is a SIP?

A Share Incentive Plan (SIP) is an all-employee share plan that offers tax and National Insurance benefits for both participants and employers.

A SIP can provide for four main types of share award; free shares, partnership shares, matching shares and dividend shares. If the shares are held in the SIP for at least 5 years, they can be sold free of income tax, National Insurance and capital gains tax. Apart from the tax benefits, private companies may use a SIP employee benefit trust to facilitate an internal market in shares. US companies may use a SIP to replicate features of a section 423 Plan (employee stock purchase plan) for its UK employees.

Main features

Free shares

- Companies may make awards of up to £3,600 worth of free shares per employee in any tax year, which can be linked to performance.
- Free shares must be subject to a holding period of at least 3 years, and not more than 5 years, during which the shares must be held in the SIP and cannot be sold other than on an employee leaving the company.
- Companies can also impose forfeiture restrictions on free shares.

Partnership shares

- Employees may buy up to £1,800 worth of partnership shares in any tax year using deductions from pre-tax earnings.
- Deductions can either be made through monthly savings or in lump sums (for example, from an annual bonus).
- Partnership shares can be withdrawn from the SIP at any time, though income tax may be payable if they are not held in the SIP for 5 years.
- In order to ease the administrative burden of operating a SIP, companies may accumulate deductions over a period of not more than 12 months; shares are then purchased at the end of that period using the accumulated deductions.

Matching shares

- Companies may award up to 2 additional free shares for each partnership share purchased (“matching shares”).
- Like free shares, matching shares must be subject to a holding period of at least 3 years and not more than 5 years, and they may also be subject to forfeiture.

Dividend shares

- Companies can decide that dividends paid on plan shares will be reinvested in dividend shares, or give employees the choice to receive dividends in cash or shares.
- Dividend shares are subject to a 3 year holding period during which they cannot be sold other than on an employee leaving the company.

Tax benefits

For employees

The tax benefits for a SIP are generous: if the shares are held in the SIP for more than 5 years, they may be withdrawn free of income tax, National Insurance contributions ("NICs") and capital gains tax (CGT) (and the "base cost" of the shares for CGT purposes is uplifted to market value at the time of withdrawal). Dividend shares may be withdrawn tax-free after just 3 years.

The shares of leavers have to be withdrawn from the plan but for "good leavers" this is free of income tax and NICs. Otherwise, if shares are withdrawn within 3 years, income tax and NICs arise on the higher of the market value of the shares on the acquisition and withdrawal dates; if the shares are withdrawn after 3 years but before 5 years, income tax and NICs arise on the lower of these two market values.

For employers

The main tax benefit for the employer is the employer's NICs savings when compared to the cost of delivering the same benefit in cash.

A corporation tax deduction is available in the accounting period in which free and matching shares are awarded, based on the cost of the shares to the SIP trustee. If partnership shares cost the SIP trustee more to buy than the monies it receives from participants, a deduction is available for the additional cost.

There are also corporation tax deductions available for set up and running costs.

Key requirements

- All SIP shares must be held in a UK resident SIP trust.
- All employees of specified group companies that have completed any qualifying period of service must be invited to participate in the SIP.
- The SIP must not be operated so as to favour higher paid employees.
- The shares must be (i) listed on a recognised stock exchange, or (ii) in an unlisted company that is under the control of a listed company, or (iii) in an unlisted company that is not under the control of another company.
- The shares must be part of ordinary share capital, fully paid up and non-redeemable.

Administration

Trust

Companies that wish to operate a SIP will need to establish a UK resident trust to hold the shares. There are numerous professional trustee providers who can provide this service and who are also able to assist with the administration of the SIP. However, companies can also use internal trustees (for example, UK resident directors or a UK subsidiary company).

Legislative compliance

There are strict legislative requirements governing the SIP documentation and how the SIP is operated. However, following changes made in April 2014, it is no longer necessary to obtain prior approval of the UK tax authorities (HMRC) before granting awards. Instead, companies now need to register their SIP with HMRC and self-certify that it is compliant.

Tax reporting

Companies operating a SIP need to file an annual return with HMRC by 6 July following the end of each tax year.

Why SIP?

The flexibility for companies to make different types of awards makes the SIP an ideal vehicle for companies that are looking to increase their employees' equity participation in a tax efficient manner.

How can we help?

If you are considering putting in place a SIP we can assist with:

- advising on the best plan structure to suit your company;
- confirming whether you are eligible to operate a SIP;
- drafting the plan rules, trust deed and associated documentation;
- confirming compliance with HMRC requirements for the purposes of the self-certification regime; and
- drafting participant communications, including tax advice.

Our compensation and benefits services

We are independently recognised as leading experts in the design and implementation of share, phantom equity and other cash-based incentive plans for employees, executives and consultants in the UK and internationally.

A practical, multi-disciplinary approach ensures our clients receive a complete service providing fully thought through arrangements which are appropriate to their market and support the achievement of their commercial goals.

Our services range from design consulting, technical feasibility analysis, drafting and implementation to providing ongoing operational support, including advising on the impact of corporate transactions.

Our financial modelling service allows clients valuable transparency on the cash, tax and share dilution impact of proposed and adopted arrangements. We also offer share valuation services.

Client testimonials

"The team at Abbiss Cadres possess expertise that is second to none in relation to complex remuneration structures and share-based incentives that has proven invaluable to us in the execution of both IPO's and corporate transactions."

Corporate Partner, AM Law 100 firm

"Abbiss Cadres assisted Abbott Risk Consulting (ARC) Ltd in the design and implementation of an employee share scheme based on Enterprise Management Incentives (EMI). Their support was invaluable and went beyond the simple mechanics of EMI schemes. They helped us focus on our business needs and ensure the scheme we put in place would help us attract and retain staff. The scheme did just that and we have just enjoyed one of our best year's performance ever with low staff turnover and a motivated workforce. Guy Abbiss is an expert in his field and is a pleasure to deal with. I have no hesitation in recommending him and Abbiss Cadres LLP."

John Abbott, Managing Director, ARC

Abbott Risk Consulting (ARC) Ltd is an independent consultancy leading the field in the provision of consulting services and technical recruitment to the defence, transportation, marine and energy sectors.

Contact us

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