



Budget 2008:

Changes to EMI and VCT

The 2008 Budget brought mixed news for investors and small companies who benefit from the tax incentives offered by the Enterprise Management Incentive scheme ("EMI") and the Enterprise Investment Scheme ("EIS").

The welcome news is that the maximum value of shares subject to EMI options which may be granted to an employee has been increased from £100,000 to £120,000, while the maximum amount on which an investor may claim income tax relief under the EIS scheme has moved up from £400,000 to £500,000.

Yet this good news is tempered by new restrictions on companies who can participate in these schemes. Any companies whose business activities include shipbuilding or coal or steel production will now no longer be eligible for either EMI or EIS.

Furthermore, from 5 April 2008, only companies with 250 employees or less can be qualifying companies for EMI purposes. The new law is not retrospective. Therefore, existing share options granted by companies with more than 250 employees will still be effective. However, it appears that such companies who have existing EMI schemes in place and who have granted valid EMI options in the past will now no longer be able to do so.

Moreover, the abolition of taper relief removes one of the tax advantages of EMI options – previously, taper relief started running from the date of grant rather than the date of exercise, allowing employees selling shares to be taxed at only 10% even earlier than would otherwise be the case. Going forward, with EMI schemes being seen as less tax efficient, there may be a need for companies to explore other types of share incentivisation.

Elizabeth Small
Partner
Tel: 020 7330 6919
elizabeth.small@halliwells.com

Richard Clitherow
Associate
Tel: +44 0161 618 4766
richard.clitherow@halliwells.com

Halliwells LLP Tel: +44 (0)844 875 8000
3 Hardman Square Spinningfields Manchester M3 3EB
1 Threadneedle Street London EC2R 8AY
City Plaza Pinfold Street Sheffield S1 2GU
The Plaza 100 Old Hall Street Liverpool L3 9TD
www.halliwells.com

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