Company share option plans

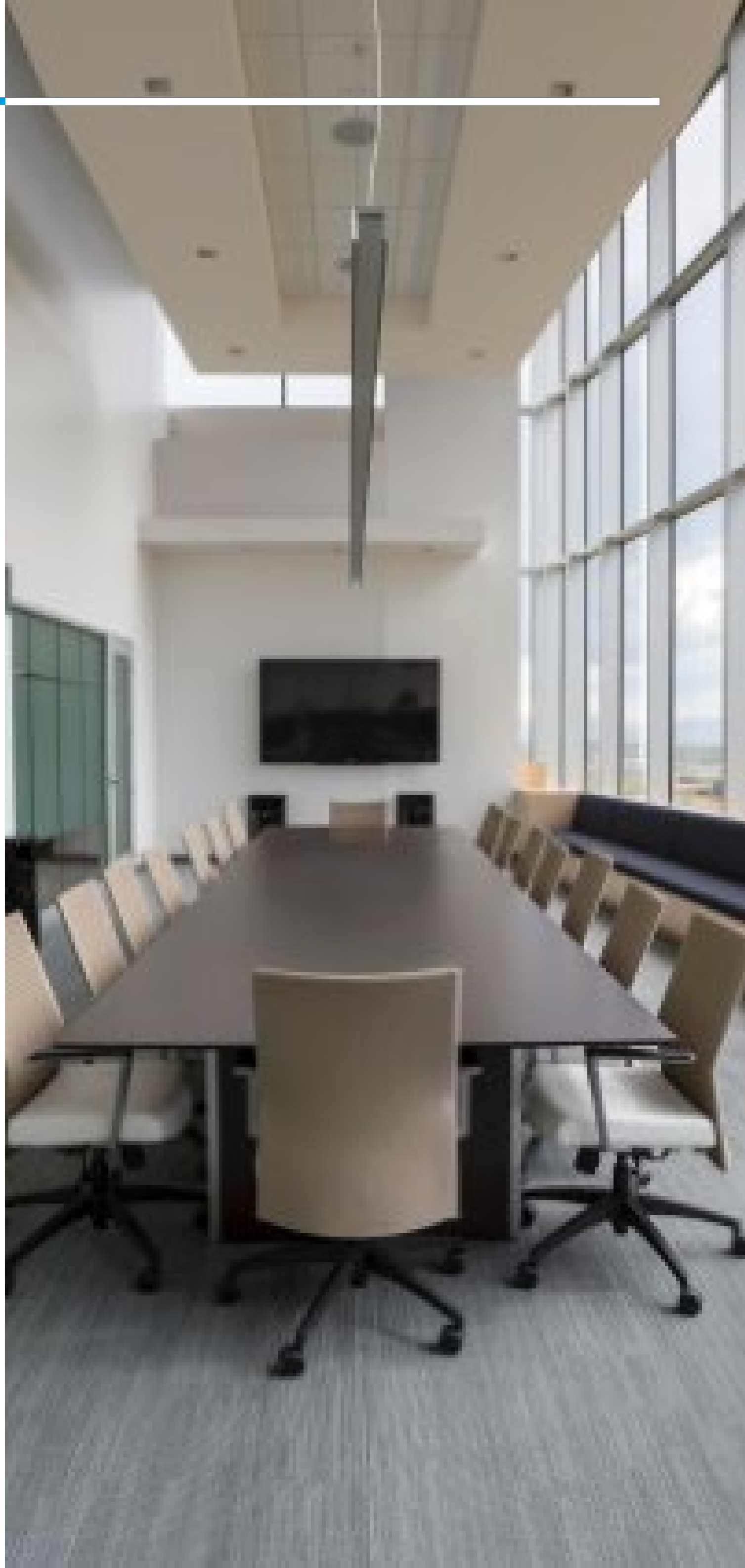
Company share option plans (CSOPs) are statutory share incentives that allow companies to grant tax advantaged share options to employees selected at the employer's discretion.

Key points

- The company must register its CSOP and self-certify that it satisfies conditions to qualify for favourable tax treatment by 6 July following the tax year in which an award is made.
- The employees and directors taking part should be resident in the UK for tax purposes and must normally be employed at the time of grant and exercise.
- CSOP options can enable each employee/ full-time director to buy shares with a total market value at grant of up to £60,000 (including any current EMI options).
- The price of the shares must not be less than market value at grant.

Tax treatment

- No income tax or national insurance contributions (NICs) are chargeable when an option is granted.
- Employees wishing to obtain the maximum tax advantage from a CSOP option must generally wait for three years after the grant before acquiring the shares.
- Where shares are acquired between three years and ten years after the option grant, there will be no income tax or NICs liability on exercise of the option.
- If the company's plan allows shares to be acquired within three years of grant, and within six months of the cessation of an option holder's employment as a 'good leaver' (eg by reason of injury, disability, retirement, redundancy, or because of a takeover, or certain other corporate events), there will be no income tax or NICs liability on exercise of the option.
- If when CSOP shares acquired, it does not qualify for tax advantages, or where an option is given up in return for money or other value, any income tax and NICs may need be paid through PAYE .
- On sale or other disposal of shares acquired from a CSOP option, capital gains tax (CGT) may arise. This is usually based on the value on disposal less the price paid for the shares. If there was a previous income tax liability, the amount subject to income tax is deductible in the CGT calculation. The effective tax rate is 20% or less. In practice, for many, the gains will be covered by the CGT annual exemption.
- When options are exercised under a CSOP scheme, the employer may be eligible for a corporation tax deduction, whether or not the participant pays income tax and NICs, linked to the employee's gain (subject to a rule that restricts relief if a corporation tax deduction was previously allowed in respect of related expenses).



Qualifying conditions

- The shares must either be shares in a company that is not under the control of another company, or shares listed on a recognised stock exchange (excluding AIM).
- If the company is a close company, a CSOP is not open to anyone who (with ‘associates’) owns more than 30% of the ordinary share capital of the company.
- Directors must be full-time employees (25 hours per week) to participate.
- The shares used must be fully paid up, not redeemable and must form part of the ordinary share capital of the employer or parent company.
- Share restrictions in the company’s articles of association must be summarised for participants.

Valuation

- For unlisted companies and AIM companies, a valuation for the shares should be agreed with HMRC before any options are granted, as it is a requirement of tax law that the exercise price cannot be less than market value.

Accounting treatment

- In the year in which options are granted a charge representing the ‘fair value’ of the options granted must normally be recognised in the employer’s profit and loss account. Although this reduces declared profits for accounting purposes, the charge does not reduce profits for corporation tax purposes as tax relief is given under the separate statutory regime described above.

International groups

- For international groups, a CSOP may be arranged for UK participants either as a stand-alone plan or as a sub-plan to an overseas share option plan.
- In such cases, the accounting treatment and corporation tax reliefs must be appropriately structured to maximise tax efficiency while complying with transfer pricing legislation.

Pay careful attention

The tax legislation, rates and reliefs referred to herein are applicable at June 2023. Tax rules change frequently and the value of a relief from taxation depends on the particular circumstances of the taxpayer.

Contact

For further information on share schemes, please contact Fiona Bell, Simon Adams, Martin Cooper or your usual RSM adviser.