

it's good to Share

November 2007

Supporting employee share ownership
and financial education in the workplace

Pre-Budget Report surprise: effect of CGT simplification

The new Chancellor, Alistair Darling, surprised us in his early Pre-Budget Report last month by announcing proposals to simplify capital gains tax (CGT). *ifs ProShare* has expressed concern at the consequences of the CGT simplification and the abolition of taper relief.

The majority of employees participating in their employers' share plans do so via a Share Incentive Plan (SIP) that shields employees' shares from capital gains, so the new CGT arrangements will have an impact on these employees only in limited circumstances.

However, approximately 1.7 million employees in the UK make monthly savings through a Save As You Earn Scheme (Sharesave) and although the new proposals will not affect the majority of Sharesave participants, they could have a serious impact on a significant minority of employees with gains above the annual exemption limit (currently £9,200). From April 2008, a new rate of 18% will apply equally to basic rate and higher rate taxpayers and to business and non-business assets.

Currently, employees who exercise Sharesave options and keep their shares for two years or more are protected by capital gains business asset taper relief (BATR), which means that basic rate and higher rate taxpayers are only subject to CGT at 5% and 10% respectively. Under the new proposals all such employees will be subject to CGT at 18% regardless of how long they have held shares in their employer. As a result, employees who are higher rate taxpayers will be subject to an 8% increase in tax and employees who are basic rate taxpayers will be 13% worse off.

In contrast, non-employee shareholders could be up to 22% better off, having previously been liable to a maximum 40% CGT charge. Employees who have contributed to the success of their employer will now be worse off than under existing legislation, whilst non-employee shareholders will have their CGT liabilities substantially reduced.

There is a common misconception that most employees sell their shares immediately after exercise but there is a great deal of evidence to suggest that a majority do in fact hold on to their shares. Whilst the Treasury may have sound reasons for simplifying CGT, it would appear that the consequences for employees saving through employee share plans have not been fully assessed. These apparently unintended consequences contradict the Government's oft-stated commitment to encouraging long-term saving and its support for wider share ownership.

After consulting our members, many share our view that these proposals may act as a disincentive to employee share ownership via Sharesave and in fact may encourage employees to sell rather than keep their shares. As a result, we have met with HMRC officials to pass on members' feedback and to lobby on this issue. We will also be meeting with Treasury officials and other policymakers to discuss a solution in the near future and will keep members informed of progress.

We encourage members to make individual representations to Treasury and suggest that they should be sent to the Chancellor, the Rt. Hon Alistair Darling MP, 1 Horse Guards Road, London, SW1A 2HQ (or email to: ministers@hm-treasury.gsi.gov.uk) and copied to the HMRC Employee Shares and Securities Unit (kevin.meehan@hmrc.gsi.gov.uk).

Welcome to Equiniti

Equiniti, formerly Lloyds TSB Registrars, unveiled its new corporate look on 1 October, following its purchase by Advent International, the leading global private equity group. The rebranding marks the start of an exciting new era for Equiniti, which will see the company look to expand into new markets.

Commenting on the new look, Chairman Bob Thian said: "The rebranding marks a milestone for the organisation and, while the name and brand identity of the company has changed, our clients will continue to experience the same high level of service that has made the company a market leader in the UK share registration and employee share plans markets."

The Equiniti name and its impressive new branding will be given high visibility as the exclusive Awards Dinner Partner at the *ifs ProShare* Annual Awards on 20 November at the New Connaught Rooms.

Equiniti is a leading provider of UK share registration and employee share plan services. Going forward, the company plans to grow its pension administration, employee benefits and retail investor services divisions as well as pursuing other business process outsourcing opportunities.

Bob Thian added, "This is a very exciting time for us and we are looking forward to the future with confidence and enthusiasm." www.equiniti.com

Annual Awards

We are pleased to say that Awards entries have flooded into our Cannon Street offices. Check www.ifsproshare.org/events for details of shortlisted companies.



Winners will be announced at the Annual Awards Ceremony on 20 November at the New Connaught Rooms. We are delighted to announce that Equiniti is our exclusive Awards Dinner Partner, RBC cees is the Guest Book sponsor and Citi Smith Barney is once again the prize draw sponsor.

We look forward to hearing this year's guest speaker, Matt Dawson, especially after the excitement of the Rugby World Cup.

The Companies Act 2006 and its effect on employee share plans – a snapshot

The Companies Act 2006 constitutes a major overhaul of the legislation relating to companies and their share capital. Significant parts of the Companies Act 2006 are now in force, with the remaining provisions coming into effect by October 2008.

The Companies Act 2006 spans 1,300 sections and 16 schedules. This article aims to give readers a brief snapshot of the principal areas of impact for companies implementing employee share plans. If any reader would like a more detailed overview, Baker & McKenzie LLP is sponsoring an *ifs ProShare* workshop on the “Companies Act 2006 and its impact on Employee Share Plans” on 5 December 2007 (see www.ifsproshare.org/events for further details).

The good news is that the Companies Act 2006 does not introduce any major obstacles to the implementation of employee share plans. For private companies, it may even be easier for companies to establish and operate employee share plans. For public companies, the process should be no more difficult. There is, however, a lot of new or altered legislation to consider. The new legislation does not get rid of all the previous ambiguities in the companies legislation relating to employee share plans.

The principal areas to consider, in the context of employee share plans, include the following:

- Legislation relating to the share capital of the company.
- Financial assistance prohibition – from October 2008, the prohibition on a private company giving direct or indirect financial assistance for the acquisition of its shares will be abolished. The previous financial assistance prohibition rules will continue to apply to public companies.
- The existing definition of employee share schemes (which is used to determine whether specific provisions apply throughout the legislation) is restated.
- New provisions have been brought in that implement the EU Takeovers Directive. Companies should be reviewing their share plans to reflect the new provisions.
- New provisions relating to shareholder communications and shareholder meetings and resolutions.
- There is no longer an obligation under the Companies Acts for directors to notify their dealings in company shares and for the company to keep a register of such dealings. Listed companies will still, however, need to comply with disclosure requirements of their exchange, including, for companies listed on the London Stock Exchange, disclosure requirements to be made by all “persons discharging managerial responsibility”.
- The Companies Act 2006 codifies directors’ duties. Directors must consider their duties when deciding to set up and operate an employee share scheme. The seven statutory duties are:
 1. to act within a company’s powers;
 2. to promote the success of the company;
 3. to exercise independent judgement;
 4. to exercise reasonable care, skill and diligence;
 5. to avoid conflicts of interest;
 6. not to accept benefits from third parties; and
 7. to declare an interest in a proposed transaction or arrangement.
- From October 2007, there is an increased ability for shareholders to take a derivative action for directors’ breach of duty. The threat of a derivative action could be another weapon in the armoury of activist shareholders.

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Training Courses

| Date & Time | Course | Venue |
|----------------------------|---|--|
| 7 November 1000 - 1600 | Share Plans from Launch to Maturity | <i>ifs ProShare</i> Cannon Street, EC4 |
| 14 November 1030 - 1300 | Tax & Share Plans | <i>ifs ProShare</i> Cannon Street, EC4 |
| 27 November 1030 - 1300 | International Share Plans | UBS Curzon Street, W1 |
| 5 December 1030 - 1300 | The Companies Act | Baker & McKenzie New Bridge Street, EC4 |
| 10 December 1000 - 1600 | An Introduction to Employee Share Plans | <i>ifs ProShare</i> Cannon Street, EC4 |
| 12 December 1000 - 1300 | A Review of 2007 | SJ Berwin Queen Street Place, EC4 |

For more information about the courses and details of how to book, please visit our website http://www.ifsproshare.org/events/training_courses_workshops_and_seminars/index.cfm

Lembit Öpik kicks off *ifs ProShare* Conference on 27 September 2007

Lembit Öpik MP, the Liberal Democrat Shadow Secretary of State for Business, Enterprise and Regulatory Reform, made a well-received keynote speech at this year’s *ifs ProShare* conference.



Emphasising the Liberal Democrats’ strong support for employee share ownership, he cautioned that work was still needed “...to adjust the culture of some businesses in the UK who are not used to sharing the rewards of success.”

Before becoming an MP, Öpik was an HR manager for Procter & Gamble where he was involved in the implementation of an all-employee share plan. He has also implemented an employee share scheme at a private company that he now operates.

Öpik said: “Some companies may not offer their employees a share scheme because they ask themselves why should they give something away that they don’t have to? This short-sightedness needs to be addressed. Most commentators realise that employee share ownership schemes are not only an effective remuneration device but lead to better motivated staff and lower levels of staff turnover – it’s a win-win situation.”

Fiona Downes, Head of Employee Share Ownership at *ifs ProShare*, responded:

“We are pleased that Lembit has voiced such a strong commitment to employee share ownership.

We certainly take on board his comments that there are still some companies who don’t yet appreciate the benefits of employee share ownership but it’s also important to recognise that many companies do – and that there are over 5 million employees in the UK who benefit as a result.

ifs ProShare will continue to do all it can to raise awareness of the benefits of employee share ownership and we look forward to many more companies offering their employees a chance to participate in such schemes in the future.”

Relaunch of www.ifsproshare.org

The *ifs ProShare* website has been completely overhauled and was relaunched at the end of the summer. As well as providing a wide variety of information, the new site has a members’ area accessible only when the membership account has been activated. Access is currently restricted to a single username per member organisation so log-in details will need to be shared by the main contact. We plan to allow multi-user access in a later phase.

Membership activation requires the activation link to be accessed and a log-in password to be set up, whereupon members will be able to amend their contact details and include supplementary information about their organisation which will feed into the advance search facility. We encourage members to complete their membership activation if they have not already done so. If members require their activation link to be re-sent, please send a request by email to ifsproshare@ifslearning.ac.uk

We hope you agree that the new site is far more user-friendly and simple to navigate but we encourage any suggestions and feedback for future improvements.