The business armoury

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Matthew Poli examines the advantages of enterprise management incentives in the time of Covid-19

Coronavirus has disrupted the economic wellbeing of businesses of all sizes and sectors, in many cases necessitating pay cuts, furloughing staff or cutting performance incentives, such as bonuses. With many companies now in survival mode, it is more important than ever to ensure they retain top talent. Whilst a drop in revenue might limit a fiscal reward for an employee's hard work, businesses are increasingly looking towards enterprise management incentives (EMIs) as an attractive alternative remuneration package.

It is a route that companies should consider if seeking employee benefit schemes during this time. An EMI can be a key weapon in a business's armoury, especially for employers concerned about retaining key talent following business restructures or if remuneration packages have been reduced or halted. Without the need for an immediate fiscal injection, it can help to galvanise internal relationships, particularly in times of uncertainty like these.

An EMI is an approved employee share scheme that is available to most trading companies – with the exception of those in banking, farming, property development, legal services and shipbuilding – that allows employers to grant tax efficient share options to key employees. Unlike unapproved shares, an uplift in share value is not subject to income tax and any subsequent disposal of EMI shares falls within the capital gains tax regime; therefore, any uplift in their value is subject to the lower rates of capital gains tax.

Continued government protection

Since EMIs were introduced in 2000, a host of changes have been made to make the scheme more attractive and to ensure that those using it have been provided with additional protections amidst the pandemic.

On 21 July, the government published draft legislation aimed at ensuring that employees whose working patterns were disrupted by Covid-19 will not be disadvantaged by EMI rules. Pre-pandemic, a qualifying requirement of the scheme was that employees should work no fewer than 25 hours per week at the business or, if less, at least 75% of their working time. For options granted before March 2020, employees will now remain qualified if they were placed on furlough, unpaid leave or were required to work reduced hours.

This is, of course, important because the occurrence of a 'disqualifying event' would ordinarily result in the loss of the tax benefits of the scheme. The company and the relevant employee have an obligati on to retain evidence of the reduction of their hours due to Covid-19.

There will inevitably be cases where an employee's contract has been terminated as a result of Covid-19, whether due to redundancy or illness. If the employee was unable to work for an extended period of time, or has died, the scheme rules will need to be checked and advice taken to ascertain the impact of the event on the option.

A key incentive

A number of businesses have been considering restructuring as a result of Covid-19, including restructuring the workforce due to a downturn in business, shrinking markets and faltering customer confidence. EMIs, alongside other tax advantageous schemes, should be considered as part of the positive side to a restructure. Whether or not an employee is directly affected by a restructure, it is important not to lose sight of the impact that it will have on them and the way they view their employer. Even if an employee has been furloughed or placed on reduced hours or pay for business critical reasons, the employee may feel ‘hard done by’ or unfairly treated, and loyalty and goodwill towards the employer could be eroded. Any restructure needs to be handled with care, but often the perception of events by those affected supplants the reality of the exercise.

Key value-generating employees will need to be retained when the pandemic is over, and acting to secure them now is something all companies should consider. If a company qualifies for an EMI scheme, it can be a relatively simple and cost effective measure to ensure that employees are tied to the company for the long term, and feel that they have a stake in its future success. The granting of a qualifying option can be used to off set the ‘pain’ of furlough or a salary reduction, and allows an employee to feel part of company’s onward trajectory, irrespective of short term challenges.

An EMI scheme should be considered as part of a Covid-19 strategy and as a means of managing the impact of the pandemic generally. Whilst not something to be entered into lightly, such a scheme remains a cost effective, cash efficient way of securing key employees, driving value and growing a business in the time of coronavirus.