



HM Revenue
& Customs

Enterprise Management Incentives (EMI) - Amendment of working time requirements

Who is likely to be affected

Employers and individuals that participate in Enterprise Management Incentive Share Schemes (EMI).

General description of the measure

This measure will ensure that individuals who are furloughed or who have their working hours reduced below the current statutory working time requirement for EMI as a result of COVID-19 will retain the tax advantages of the scheme.

Those participating in an EMI scheme are required to meet the 'working time requirement'. This means that the employee's time committed to the company must be equal to or exceed the statutory threshold of 25 hours per week or if less, 75% of their working time.

Where employees are furloughed, working reduced hours or taking unpaid leave, they may not be able to meet the committed working time requirement, resulting in a 'disqualifying event'. A disqualifying event means the options must be exercised where permitted within 90 days for tax relief to apply.

This measure will introduce a time-limited exception to the disqualifying event rules so that participants are not forced to exercise their options much earlier than planned.

HM Revenue and Customs will accept that, from 19 March 2020, if an employee with share options granted before that date would otherwise have met the scheme requirements but did not do so for reasons connected to the coronavirus pandemic, the time which they would have spent on the business of the company will count towards their working time.

Policy objective

This measure makes sure that EMI participants can maintain the tax advantages and reliefs as if they had continued to work for their employer as per their employment contract during the COVID-19 pandemic.

Background to the measure

The government has introduced support for businesses to protect jobs during the COVID-19 pandemic by introducing a number of measures including the Coronavirus Job Retention Scheme. Where employees are furloughed, working reduced hours or taking unpaid leave due to COVID-19, they may not be able to meet the committed working time requirement of EMI. This measure ensures that participants are not forced to exercise their options earlier than planned.

Companies with assets of £30 million or less, may be able to offer EMI. Share options may be granted up to the value of £250,000 in a 3-year period. Income Tax and National Insurance contributions are not paid if an individual buys the shares for at least the market value they had when they were granted the option.

Detailed proposal

Operative date

These changes will apply for a limited period. They will be effective from 19 March 2020 and will remain in effect until 5 April 2021.

Current law

Current law is included in Chapter 9 of Part 7 of ITEPA 2003 and Paragraphs 26 and 27 of Schedule 5 ITEPA 2003.

Proposed revisions

Legislation will be introduced in Finance Bill 2020 to modify Schedule 5, Part 4 ITEPA 2003 which sets out the requirement that EMI participants must meet a minimum commitment of 25 hours working time per week or 75% of working time subject to a small list of exceptions.

A new exception will be introduced at paragraph 26 at subsection (3) alongside the other list of exceptions such as injury, ill-health or disability (a) to (d) as (3)(e) which will give effect to a new time limited exception to the working time requirement for employees who are furloughed or working reduced hours because of COVID-19.

The new exception above will only apply for the purposes of determining whether a disqualifying event occurs as set out in section 535 ITEPA 2003.

Summary of impacts

Exchequer impact (£m)

2020 to 2021	2021 to 2022	2022 to 2023	2023 to 2024	2024 to 2025	2025 to 2026
nil	-	-	-	-	-

This measure is not expected to have an Exchequer impact.

Economic impact

This measure is not expected to have any significant economic impacts.

Impact on individuals, households and families

This measure is expected to have a positive impact on participants of EMI (usually employees) who are yet to exercise share options granted over the past 10 years. There were 34,000 individuals granted options in 2018-19. This measure will maintain tax reliefs where they may otherwise not apply due to varied employment contracts during the COVID-19 pandemic. Customer experience is therefore expected to improve.

Individuals are not expected to take any further action or do anything differently.

The measure is not expected to have an impact on family formation, stability or breakdown.

Equalities impacts

It is not anticipated that there will be impacts on those in groups sharing protected characteristics.

Impact on business including civil society organisations

This measure is expected to have a negligible impact on businesses who operate an EMI scheme. There were around 12,000 companies operating an EMI scheme in 2018-19.

This measure allows their employees to retain tax advantages in EMI share schemes. One-off costs will include familiarisation with the change and could also include businesses training or upskilling staff as a result of this change. There are not expected to be any continuing costs.

Customer experience is expected to improve as this measure maintains tax reliefs that would otherwise be affected by varied employment contracts during the COVID-19 pandemic

There is expected to be no impact on civil society organisations.

Operational impact (£m) (HMRC or other)

The impacts on HMRC of implementing this change are negligible.

Other impacts

Other impacts have been considered and none has been identified.

Monitoring and evaluation

The measure will be kept under review through communication with affected taxpayer groups.

Further advice

If you have any questions about this change, please contact the Income Tax Structure and Earnings Team at incometax.structure@hmrc.gov.uk

Declaration

Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, has read this tax information and impact note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.