Hammonds

Tax Efficient Share Incentives

Adding value and minimising tax for senior employees

With the top rate of income tax rising in April 2010 to 50% and higher rate tax relief on pension contributions being withdrawn from April 2011, share incentives that are subject to capital gains tax at 18% are more appealing than has been the case for some time. Hammonds has developed an arrangement that enables quoted companies to use their existing share plans more tax efficiently and deliver greater post-tax returns for their employees.

At the outset, the employee and an employee benefit trust jointly acquire shares. To minimise the employee's income tax liability, all (or substantially all) of the value in the shares jointly acquired is attributed to the employee benefit trust. As the value of the shares increases, so does the value of the employee's interest. The rise in value when the jointly owned shares are realised by the employee is subject to capital gains tax rather than income tax.

Major benefits available

- The joint ownership arrangement can often be set up as part of existing share incentive structures without the need for further shareholder approval.
- The arrangement can be dovetailed with existing share incentive plans to ensure that the overall pre-tax value of the incentive is unaffected, but with as much of the benefit as possible subject to capital gains tax at 18% rather than income tax at up to 50%.
- NIC costs for both company and employee can be reduced through the joint ownership arrangement (although with a reduced corporation tax deduction for the company). With NIC rates also rising in April 2011, this is an added cost saving.
- HMRC have stated that they accept the tax analysis that underlies the arrangement.
- It may be possible to use this kind of arrangement to assist with retirement planning by replacing some of the value lost through the removal of higher rate pensions tax relief.

Our experience

Hammonds has several years experience of successfully implementing these structures, more recently in the quoted company sector. With tax rates likely to stay high for some time, this opportunity to incentivise, motivate and retain key employees by utilising a more tax efficient structure can deliver a real competitive advantage.

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