

Share Plan Lawyers

Introduction to Sharesave

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What is Sharesave?

Sharesave is a tax-advantaged all-employee share plan with two elements:

Savings

- Employees choose to save between £5 and £500 per month
- This money is taken directly from after tax salary and put into a savings account over a three or five year period

Share option

- Employee granted an option to acquire shares using their savings at the end of the savings period, at up to a 20% discount to the share price at award
- Employees can potentially make a profit if the share price is then higher



Sharesave is
40 years old
this year



The plan must meet the requirements of the SAYE Code*

Companies must register a Sharesave plan with HMRC online and self-certify that the plan is compliant with the SAYE Code with annual returns

The main statutory eligibility requirements fall into three categories: the nature of the company, the shares and the employees, but rules also need to follow legislation

- * SAYE Code = Chapter 7 of Part 7 of Income Tax (Earnings and Pensions) Act 2003 (“ITEPA”), Schedule 3 to ITEPA and Part 2 of Schedule 7D to the Taxation of Chargeable Gains Act 1992
HMRC’s ETASSUM also contains relevant material



Although there is no need to be quoted, this is a practical requirement.

Under the SAYE Code, options may only be granted over ordinary shares in a company (including a non-UK company) which meets one of the following criteria:

It is listed on a recognised stock exchange (not AIM)

1

2

It is not controlled by another company

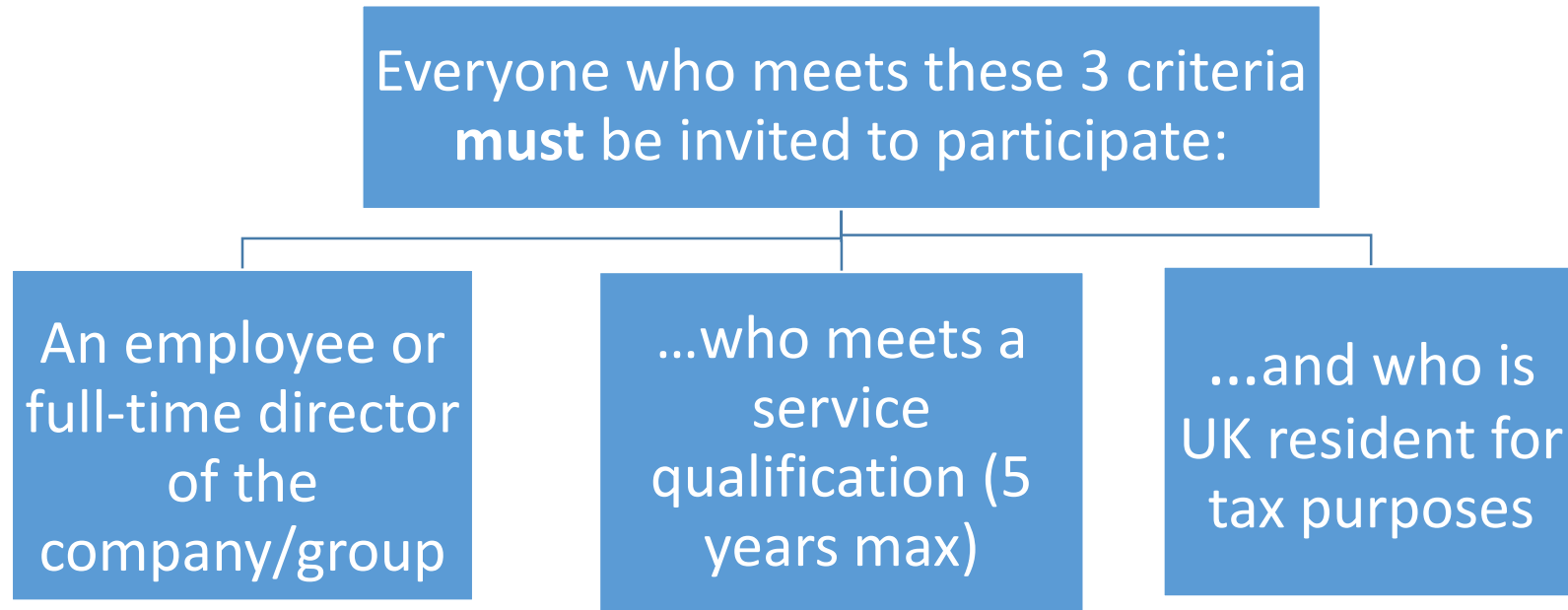
It is subject to an employee-ownership trust

3

4

It is controlled by a company that is listed on a recognised stock exchange (and is not a close company)

Eligible employees



Others who do not meet these requirements **may** be invited

The plan must not contain any feature likely to discourage any such person from participating and all must be eligible to participate “on similar terms”

The option exercise price

The option exercise price per share must not be less than 80% of the market value of a share at the time of award i.e. a discount of up to 20% of market value is allowed

A discount means the option is “in the money” from day one

The savings element

1	Savings contract	A Sharesave option must be linked to a “certified SAYE savings arrangement” with a bank/building society under which regular monthly contributions are deducted from post-tax salary
2	Length	The company may offer a 3 year or 5 year savings contract or a choice between the two
3	Savings limits	The maximum monthly savings amount is £500 and the minimum is £5 (or a higher minimum amount chosen by the company up to £10)
4	Bonus	A bonus is added to the savings at the end of the contract at a rate set by the Treasury (currently nil)
5	Missed savings	Up to 12 monthly contributions may be missed but any more means the option lapses. The monthly amount cannot be varied. COVID-19 change

Typical plan rules

Administrative provisions	Definitions – Including option price and eligible employees	Invitation procedure
Amending the rules	What should be covered?	Scaling down and plan limit – set a cap on the award?
Variation of share capital		Option grant
Rollover	10% of share capital available for share plans	Non-assignability of option
Corporate events	Good leavers and death	Option exercise and lapse



Standard tax treatment

The following tax treatment applies except in the case of certain corporate events

- No tax or NICs payable on the grant of the option
- No tax or NICs payable on the exercise of the option
- On sale of the shares following exercise, CGT is due on the difference between the option exercise price and the proceeds of sale but, with a capital gains tax annual exempt amount of currently £12,500, in many cases no tax is due at all

A statutory corporation tax deduction is available for the company when the option is exercised (whether tax-favoured or not) equal to the gain on exercise

Death/other leavers

1	Death	The PRs of a participant who dies may exercise the option within 12 months of the death
2	Good and other leavers	Participants who leave through injury, disability, redundancy or retirement must have a right of early exercise for six months – other leavers must lose their options (but keep savings)
3	Business transfer or subsidiary sale	Participants whose employer, or the business they work for, is sold outside the group must have a right of early exercise (but not mandatory where the transfer is non-TUPE) for six months

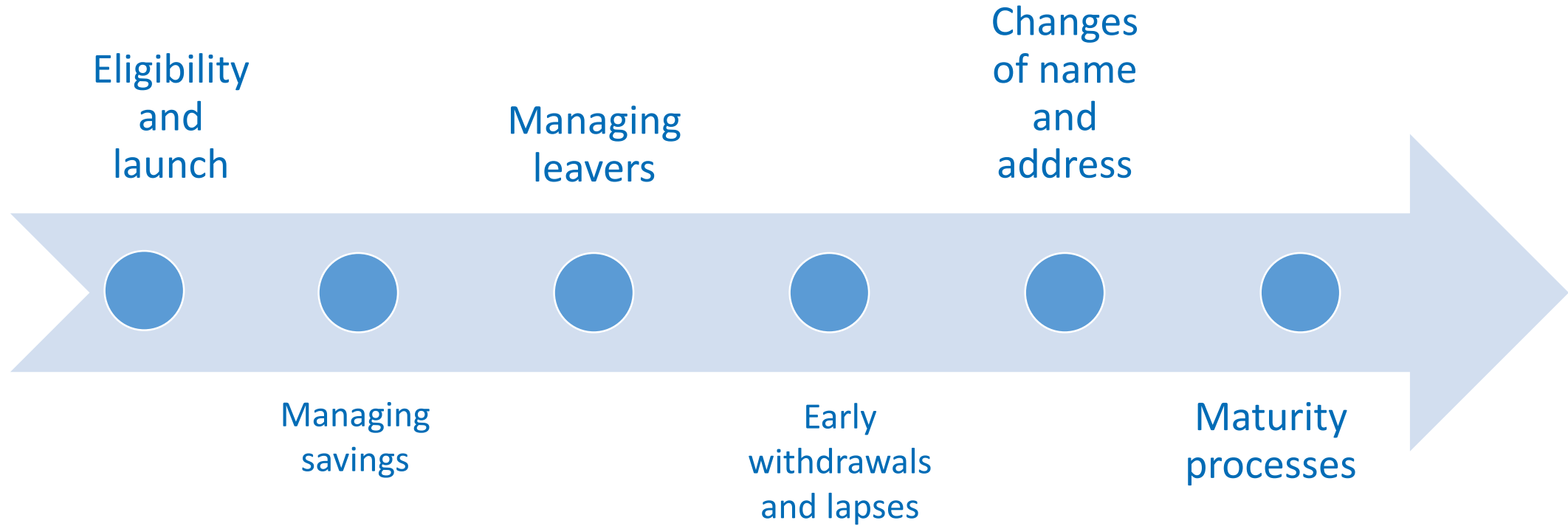
Options can only be exercised with savings made at point of exercise

Corporate events

1	Nature of event	Takeover by way of general offer or scheme of arrangement or compulsory acquisition of shares (or certain foreign equivalents) or voluntary winding-up
2	Exercise on change of control	Exercise within 6 months of “change of control” i.e. when offer becomes unconditional or court sanction of scheme – but see below
3	20 day window	Exercise may be permitted up to 20 days prior to the change of control conditional upon it happening or within 20 days after the change of control if the shares will no longer meet the independence/listed company requirements of the SAYE Code
4	Rollover	Options may be “rolled over” into options over shares in the acquiring company and retain their tax-advantaged status, subject to certain conditions. If rollover offered, favourable tax treatment not available for exercise of options which have not been held for 3 years

Options can only be exercised with savings made at point of exercise

Administration



SHARESAVE
SCHEME
2020 Invitation



Frequency

- Typically annually
- Special circumstances

Invitation

- Email
- Explanatory brochure
- Terms and conditions
- Prospectus
- Privacy notice
- Poster
- Videos
- Microsites
- Presentations/online chat
- Internal communications
- Banners/table talkers
- Post cards



Example



The 2020 Option Price is **£10**

As an example if you saved **£50** per month you would be able to purchase:



	3 years	5 years
Total savings	£1,800 [36 x £50]	£3,000 [60 x £50]
The number of shares you could buy	180 [£1,800 / £10]	300 [£3,000 / £10]
Value of shares at a £15 share price	£2,700 [180 x £15]	£4,500 [300 x £15]
Potential profit	£900 [£2,700 - £1,800]	£1,500 [£4,500 - £3,000]



After some months of preparation	
Option Price calculated	Tuesday 7 April
Invitation period opens	Wednesday 8 April
Invitation period closes	Tuesday 28 April
Options granted	Thursday 7 May
Option Certificates issued	w/c 25 May
Payroll deductions start	July
Savings contract start date	1 August 2020
Maturity date (3 year)	1 August 2023
Maturity date (5 year)	1 August 2025





At the end of your savings period, you'll have the choice to:

A

Buy [company]
Group shares at
the Option Price of
£10 and keep
them

B

Buy [company]
Group shares at the
Option Price of £10
and sell them
straight away

C

Transfer them into
an ISA or to your
spouse / civil partner

D

Withdraw your
savings as cash

Your money will be
returned in full





SHARE SUCCESS,
GROW YOUR SAVINGS

「 Sharesave Scheme
2020 **Maturity** 」

Sharesave maturity

On 1 August 2020 your Sharesave Option will mature and you need to decide what to do with your savings

Maturing Options

- 2017 3-year Scheme: £13 Option Price
- 2015 5-year Scheme: £9 Option Price
- You will have six months from your maturity date to make a decision
- If you have missed any payments during your Scheme your maturity date will be delayed by one month for each missed payment



Choice 1: Keep your shares

If you decide to use your savings to buy [company] shares at the Option Price and keep them you can:

Hold them electronically in the [company] Global Nominee

Hold them as a paper share certificate

Transfer your shares into an ISA

Transfer your shares as a gift



BECOMING A SHAREHOLDER

Choice 2: Sell your shares



You can buy all of the shares under the Option and sell them immediately

- If at the point of sale the [company] share price is higher than the Option Price, you could potentially make a profit
- The share price will move up or down
- EQ offer a share dealing service
- You will receive the proceeds by BACS within five working days



If the [company] share price is below the Option Price a Scheme is considered underwater

- If the share price is below the Option Price on 3 August any shares you have chosen to keep or sell will not be issued to you
- If this continues the ESP Portal will be closed until the share price rises above the Option Price
- You have six months to exercise your Option so can wait and see if the [company] share price increases before submitting your instruction
- If you take no action your savings will be returned to you at the end of the six months



How to exercise your option

- To exercise your option visit the ESP Portal [www.shareview.co.uk/clients/\[company\]group](http://www.shareview.co.uk/clients/[company]group)
- You may need to register for an account and will need your Identifier
- **Any questions?**
 - Ask your Sharesave Champion
 - Visit the Sharesave intranet site
 - Contact the EQ helpline
- All employees must comply with the [company] Share Dealing Policy
- Residuals



Benefits of holding your shares in the [company] Global Nominee:

- Your shares will be held in an uncertificated account which you can view online
- There is no charge to hold your shares in the [company] Global Nominee
- A share dealing service is provided and you can choose to sell your shares at a specified price
- You can transfer other [company] shares held in your name into the [company] Global Nominee

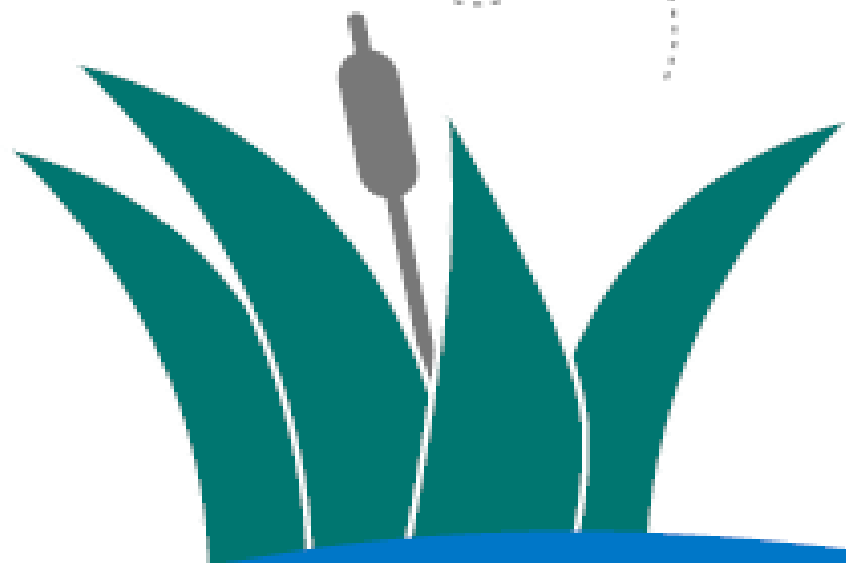
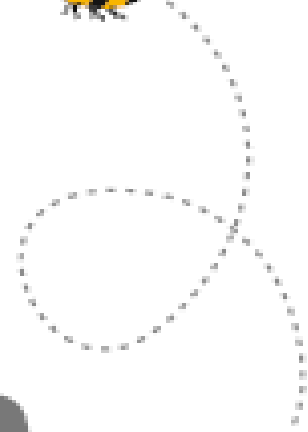
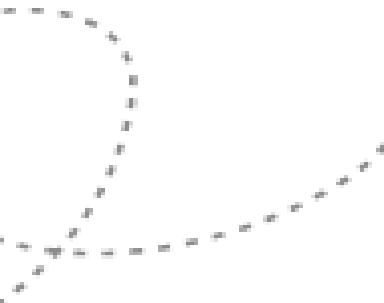




Action	Date
Submission of maturity instruction for 3 August exercise	23 July (6pm)
Submission of maturity instruction for 5 August exercise	27 July (6pm)
Request shares direct to EQ ISA or a spouse/civil partner	Before 27 July
Maturity date	Saturday, 1 August
First exercise date and sale of shares	3 August
Date that Options will lapse if not exercised	31 January 2021



Takeover



Corporate events - takeover

1	Takeover Code	Rule 15 – proposals must be made to option holders
2	Rule 15 letter	The Rule 15 letter should explain the choices to be made and the tax implications - an instruction form is needed
3	Tax treatment	CGT treatment now usually available on early exercise if statutory conditions are met – but if not (usually if early exercise happens when there is a rollover alternative or the target company shares are bought for bidder shares) income tax treatment applies
4	Top-up payment	Some companies offer employees compensation for loss of ability to receive full number of shares and/or loss of favourable tax treatment



Action	Date
Sending documentation to option holders	28 November
Deadline for reply – last payment taken into account	18 December
Court sanction date	14 January
Issue shares	15 January
Scheme record time/date	5pm, 15 January
Effective date	16 January
Date for payment	30 January



International Sharesave

International Sharesave considerations:

- Scheme rules
- Selecting jurisdictions
- Local regulations, tax and exchange controls
- Employees moving between jurisdictions
- Savings carrier

Irish approved Sharesave

US section 423 tax qualification

Stock appreciation rights equivalent –
shares or cash



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