





**Coming to Britain? A Guide to
Operating Your Share Plans in the UK**

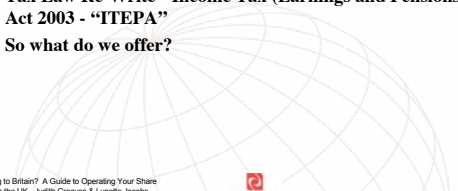
**Judith Greaves
Lynette Jacobs**




Share Plans in the UK

- **UK Government's stated aim**
 - “I want to double the number of companies in which all employees have the opportunity to hold shares” Gordon Brown, 1998
- **Tax Law Re-Write - Income Tax (Earnings and Pensions) Act 2003 - “ITEPA”**
- **So what do we offer?**



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2



**UK Revenue-Approved/
Non-Revenue Approved**

- **Revenue-approved**
 - CSOP (discretionary)
 - SAYE (broad based)
 - SIP (broad based)



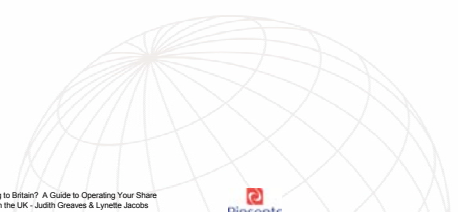
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3

Non-UK Revenue Approved

- (but highly tax-favoured) EMI
- L-TIPs
- Co-investment/deferred bonus plans
- Restricted shares

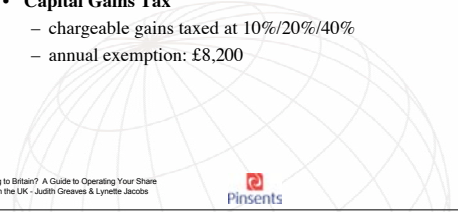


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The Tax Framework (2004/2005)

- **Income Tax**
 - lower rate: 10% (taxable income up to £2,020)
 - basic rate: 22% (taxable income up to £29,380)
 - higher rate: 40% (taxable income over £31,400)
- **Capital Gains Tax**
 - chargeable gains taxed at 10%/20%/40%
 - annual exemption: £8,200

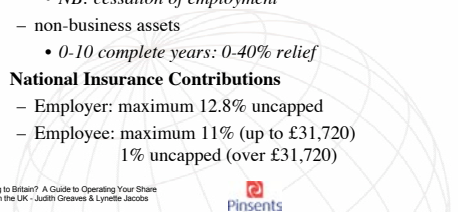


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The Tax Framework (2004/2005)

- **Taper relief (CGT)**
 - business assets
 - 0-2 complete years: 0-75% relief
 - eg higher rate taxpayer: 10% after 2 years
 - NB: cessation of employment
 - non-business assets
 - 0-10 complete years: 0-40% relief
- **National Insurance Contributions**
 - Employer: maximum 12.8% uncapped
 - Employee: maximum 11% (up to £31,720)
1% uncapped (over £31,720)




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Why Choose UK Revenue Approved?

- **So long as keep within the statutory requirements:-**
 - capital, not income treatment
 - *annual CGT exemption*
 - *taper relief (favourable business assets rate)*
 - no PAYE/income tax
 - no NICs
- **Set-up costs deductible**

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CSOP

- **Discretionary plan**
- **£30,000 individual cap**
- **Exercise price no less than market value**
- **Normally 3 years before tax-free exercise**
- **Maximum 10 year option life**

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CSOP – Finance Act 2003 Changes

- **Removal of “second three year rule”**
- **But, early exercise now subject to income tax and NICs through PAYE, unless:-**
 - “good leaver” reason and exercised within 6 months of leaving; or
 - death, and exercised within 12 months

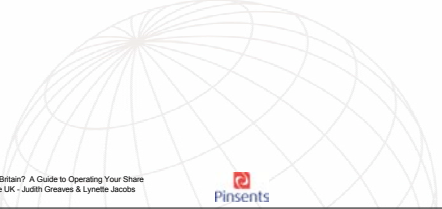
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**CSOP – Finance Act 2003
Changes**

- “Key feature” amendment relaxation
- Calculating “market value” (changed UK Revenue practice, Budget 2003)
- Action point: amend rules for FA 2003

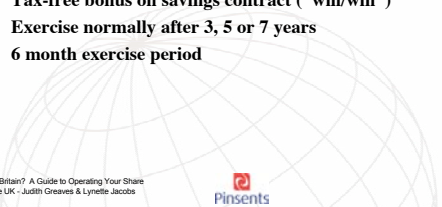


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SAYE

- “All-employee”
- Very popular with UK employees
- Monthly savings from *net* salary
- Limit of £250 p.c.m
- Tax-free bonus on savings contract (“win/win”)
- Exercise normally after 3, 5 or 7 years
- 6 month exercise period




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**SAYE – Finance Act 2003
Amendments and Other Changes**

- “Key feature” amendment relaxation
- Calculating “market value” (changed UK Revenue practice, Budget 2003)
- SAYE goes electronic!



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SIP

- **Previously known as “AESOP”**
- **“All-employee”**
- **Can mirror US stock purchase plan**
- **Requires a special trust**
- **Employees can retain shares in trust, free of tax, after 5 years**
- **4 types of “shares”:-**
 - partnership shares
 - matching shares
 - free shares
 - dividend shares

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SIP

- **Free shares**
 - £3,000 annual individual cap
- **Partnership shares**
 - investment from *gross* salary: NIC saving/deferral for employer as well as employee
 - limit of £1,500 p.a or, if lower, 10% of salary
- **Matching shares**
 - up to 2:1 ratio with associated partnership shares
- **Dividend shares**
 - £1,500 annual cap
- **3 year/5 year timeframes**

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SIP- Finance Act 2003 Amendments

- **Partnership Shares**
 - investment limit now “annual” limit
 - invest bonus?
 - can exclude categories of pay (eg overtime) to ease administration
- **Participation in more than one SIP operated by connected companies in same tax year: eg internal moves**
 - participation aggregated and subject to relevant annual limits

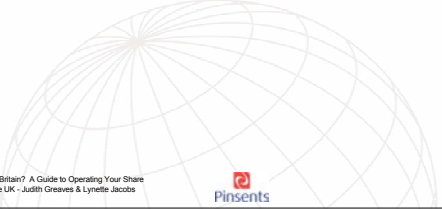
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16

EMI

- Discretionary
- Gross assets of group below £30 million
- Individual cap of £100,000
- Company cap of £3,000,000
- No restriction on exercise price (cf CSOP) (but undervalue subject to PAYE/NIC on exercise)
- CGT treatment
- Taper relief (from grant)
- UK trade (certain trades do not qualify)



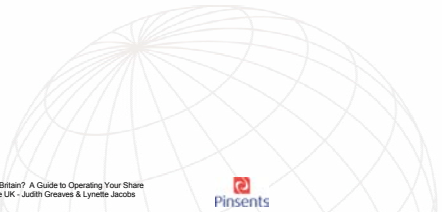
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EMI – Budget 2004 Relaxation

- “Qualifying subsidiary” – 75% requirement now removed



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18

Other Unapproved Arrangements

- **L-TIP**
 - typically, nil-cost option structure
 - in UK, often uses shares purchased in market via trust
- **Co-investment/deferred bonus plans**
- **Restricted shares**
 - in UK terms, involves real ownership from outset
- **ExSOP**
 - alternative structure enabling CGT treatment


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 19

Non-Revenue Approved The Issues

- **PAYE**
 - trap if not reimbursed within 90 days
- **NICs, but can transfer to optionholder/employee by agreement**
 - extension in Budget 2004
- **Income tax relief for employer NICs borne by employee**
- **Administration: keeping ahead of the taxman!**


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Restricted Shares

- **Wider scope: “employment-related securities”**
- **Introduced by Schedule 22, FA 2003**
- **Catches value when restrictions lifted**
- **Usually no initial tax if “restriction” determined within 5 years**
- **Can elect jointly for income tax up front**
 - “section 431” ITEPA election
 - tax gamble: not reimbursed if shares forfeit
- **Extra care with privately owned/VC-backed companies**

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Restricted Shares

- **Once paid/paid tax on full “unrestricted” market value, future growth within capital gains regime**
- **Anti-avoidance provisions**

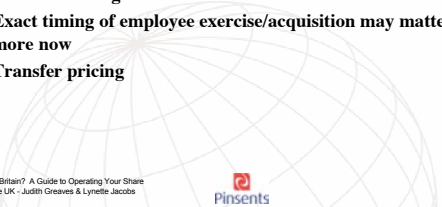


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Corporation Tax

- **Main rate: 30%**
- **New *statutory* corporation tax deduction (no other deductions available for cost of providing shares)**
- **Transitional rules where deduction given previously - no double counting!**
- **Exact timing of employee exercise/acquisition may matter more now**
- **Transfer pricing**

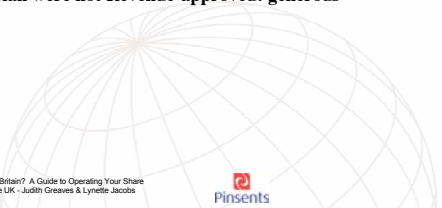


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Corporation Tax

- **Employer company deduction equivalent to amount on which employee (or ex-employee) is charged to tax: eg option gain**
- **Deduction also for amount that would be taxable if the plan were not Revenue-approved: generous**

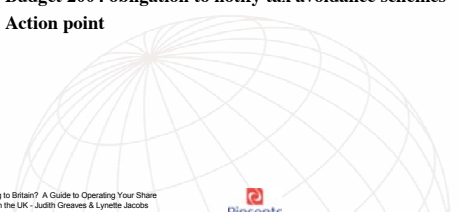


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Compliance

- **Stricter approach of Inland Revenue**
- **New deadlines**
- **More people liable!**
- **Budget 2004 obligation to notify tax avoidance schemes**
- **Action point**




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Mobile Ex-pats

- **UK resident?**
 - at grant?
 - at exercise?
- **Avoiding/minimising double taxation**
- **Practical issues**



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Other Points To Consider

- **Currency fluctuation – who will bear the risk?**
- **Do your UK employees want their dividends/sale proceeds in sterling?**
- **Tax on “foreign dividends”**
- **Financial assistance**
 - peculiar UK concept!
 - special care if “plc”
- **Communicating the plan in the UK**
 - FSMA exemptions (and where they may not apply)




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Other Points To Consider

- **European Prospectus Directive**
 - extra burden for non-EU listed companies
 - “host country”
- **Employment laws**
- **Data protection laws**
 - non-EU parent?
- **Pensions rules: Budget 2004 changes**
- **Modernising tax system for trusts from 06/04/2005**



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28



Any Questions?

Thank You

CONTACT DETAILS

<p>Judith Greaves Pinsents 1 Park Row Leeds LS1 5AB Tel: +44 (0)113 244 5000 Fax: +44 (0)113 244 8000 E-mail: judith.greaves@pinsents.com</p>	<p>Lynette Jacobs Pinsents 3 Colmore Circus Birmingham B4 6BH Tel: +44 (0)121 200 1050 Fax: +44 (0)121 626 1040 E-mail: lynette.jacobs@pinsents.com</p>
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29
