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it's our business

newspad of the Employee Share Ownership Centre

CGT battle with Chancellor intensifies

Hopes were rising this week that Chancellor Alistair Darling would respond positively to widespread appeals from business to alter his plans to introduce an 18 percent flat rate Capital Gains Tax regime from next April.

Many Centre practitioners, though not all, have joined the campaign by the Confederation of British Industry, the Institute of Directors and others to persuade the Chancellor not to abolish CGT taper relief and not to pitch the new CGT base rate as high as 18 percent.

Centre chairman Malcolm Hurlston is awaiting a reply from Mr Darling after sending him a letter pointing out the dangers posed to long-term employee share ownership by the proposed changes. Mr Hurlston wants to help set up a meeting between Treasury officials and leading Centre members.

Mr Darling's proposed CGT changes in their present form threaten to raise the tax bills of perhaps ten percent of SAYE-Sharesave employee participants. In addition, the changes would punish thousands of successful small business founders and key employees who are often given substantial performance-related awards of equity in their companies, rather than large conventional pay packets. The abolition of CGT taper relief would hit them hard. Hints of a possible shift in the Chancellor's stance on the CGT changes came in a speech he made to the CBI's annual conference a week ago: "I am listening to what you say," Mr Darling told his critics and promised a final ruling on this controversial issue before Xmas.

Though he is unlikely to scrap his planned CGT changes, he could well fine-tune them. One option would be to retain an element of CGT taper relief for approved share scheme participants, whilst another would be to lower the proposed new flat rate from 18 to either 17 or 16 percent.

Meanwhile, Mr Hurlston told the Chancellor: "As a leading members' organisation advocating broad-based employee ownership we want to see the incentives targeted accurately and I would like to draw to your attention some current dangers."

In his letter, the Centre chairman spelled out the nature of the perceived threats to Eso posed by the Chancellor's CGT plans:

*Longer term employee share saving will be discouraged once the taper relief band goes, as the tax incentive to hang onto shares after plan maturities will disappear. This is at odds with Prime Minister Gordon Brown's stated intention of using broad-based employee share schemes as a means of improving the national savings habit.

*In SAYE Sharesave schemes the level of CGT paid by lower employee participants earning less than £33,000 would soar if an 18 percent flat rate were levied on all gains above the £9,200 annual allowance. Currently employee basic rate taxpayers effectively pay CGT at only five percent once they've held their shares for two years after maturity.

*In Enterprise Management Incentive stock option schemes for SMEs, it could become harder for young, 'gazelle' companies to retain key staff after their options mature, were CGT taper relief to be axed, because they would then be more likely to cash in their options immediately (especially after an AIM flotation) and jump ship for a higher reward package elsewhere.

*The level of non-salary incentive available to both founding directors and key staff in SMEs would be badly dented by the 80 percent jump in the level of CGT levied on their gains - from ten percent (after taper relief) to 18 per cent.

Centre members Deloitte pointed out that if the CGT

Continued overleaf

From the Chairman

There are mixed views about the substance of the government's commitment to reconsider the CGT bombshell whose potential for collateral damage has disturbed the whole employee ownership world. From gazelles to gofers, everybody fears downside. We shall be briefing the opposition this week as well to ensure a well informed debate. Meanwhile the key reports from HMRC on the effectiveness of schemes are unlikely now to be published this year.

Amidst this needless disturbance it is good to see the practical gainers from employee ownership in sharp focus - the American masseuse hit even newspad's headlines and eircom resembles the shamrock google, but our special congratulations go to Cyril Sweett whose float went well and whose commitment will take the company far...indeed worldwide. If you have attended our events with regularity you will have followed this developing success story.

Malcolm Hurlston

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changes go through untouched the Company Share

Option Plan (CSOP) could catch up somewhat in the popularity stakes between itself and the EMI scheme: "Where companies are able to introduce both EMI plans and CSOP plans, it will still be beneficial to use EMI due to the higher limits (£100,000 vs. £30,000) but the advantages of the plan will be less significant as compared to a CSOP given the removal of the benefit of starting the taper clock from the date of grant (EMI) as opposed to the date of exercise (CSOP)," said Deloitte: "Effectively, the new regime will mean that where such options are exercised and the underlying shares sold immediately, both qualifying CSOP and EMI options will be taxed at 18 percent as opposed to previously where CSOP options would have been taxed at 40 percent and EMI at (potentially) ten percent."

Richard Roper of Jardine Lloyd Thompson private clients said: "In the case of business assets, the seller pays only ten percent CGT on disposals made after two years. The Chancellor's reforms will also abolish indexation allowance, which enables investors to discount the effect of inflation on the value of their assets. SME owners are concerned about having to pay an 80 percent tax increase on assets sold after next April, even leaving aside indexation allowance. It is feared that many businesses will be sold prior to April and that the higher rate will ultimately lead to a reduction in investment. Up to 80,000 employees a year could face a higher CGT tax bill. If medium and long term saving through employee share ownership are to be encouraged, action is needed. There is a range of possible solutions: complete exemption from CGT for shares acquired through SAYE schemes; the maintenance of taper relief for shares acquired through SAYE schemes and removing the ISA limit for shares transferred from SAYE schemes, " he added.

Rubbing it in

A former part-time masseuse employed by **Google** when it was a fledgling company has retired a multi-millionaire and launched her own charity, thanks to the inexorable rise of its share price. Bonnie Brown is one of more than 1,000 current and former employees who have shared in Google's good fortune, earning millions of dollars from stock options that have risen 900 percent from their initial price. Ms Brown earned $450 a week during her five-year stint with Google from 1999 and was given stock options, which, at the time, she considered almost worthless. But by the time she left, shortly after Google's flotation, her options, most of which she cashed in, were enough to make her an overnight multi-millionaire. Wisely, she held on to some of the shares and today they are worth $660 each. Now Ms Brown, 52, has her own massage business and runs a charitable foundation that she set up. "I'm happy I saved enough stock for a rainy day, and lately it's been pouring," she said. "It seems that every time I give some away, it keeps filling up again." Google employees hold stock or unvested options worth up to $5bn in total.

Employee sweetener

Centre member **Cyril Sweett** became the first quantity surveying practice to float on the AIM, a move which valued the firm at £61m. The consultant, now a plc, raised £10m before expenses (£8.5m post) to fund organic growth and acquisitions worldwide. Twice the Centre's European Award winner for the best international SME Eso scheme, Cyril Sweett said it plans to double its revenue by 2010 to £100m. Funds were raised through a placing of nine million shares at 110p per share, representing 16 percent of the company's issued share capital following admission. Broker Brewin Dolphin was placing 14.8m shares at the placing price, representing 27 percent of the company's issued share capital following admission, at an aggregate value of £16.3m before expenses. Investors snapped up Cyril Sweett on its first day of trading and the shares rose 12p to 122p. Operating from 14 UK offices and in 25 countries, Cyril Sweett is initially expected to focus on India, Australasia and its Dubai business. The company is led by chair Francis Ives, ceo Dean Webster and FD Mike Kemsley, who said: "Our existing employee share plans have rolled nicely into the new plc framework so no need to cancel and launch replacements. The company's ethos and commitment to employee share ownership remains as strong as it ever was." One of the motives for the float was to encourage long-term employee commitment - by making share schemes more attractive, he added. Cyril Sweett granted EMI options over 763,750 ords at 10p each. It granted unapproved options over 216,250 ords, exercisable at 110p per share at any time from the third to the tenth anniversary of the grant date.

Pennies from heaven

The UK taxpayer could have gained tens of millions more from the privatisation of UK defence research firm **QinetiQ**, the National Audit Office (NAO) said in a report. The spending watchdog condemned the incentive scheme, which netted fortunes for QinetiQ's senior management when private equity owner Carlyle floated the company in February 2006. QinetiQ's ten most senior managers gained £107.5m in the process – a return of 19,990 percent for their £540,000 investment in shares – labelled excessive by the NAO. Tory MP Edward Leigh, chairman of the Commons Public Accounts Committee, said the taxpayer had been short-changed, while senior managers had won the jackpot. Taxpayers have so far gained a net £576m from Carlyle's acquisition of a 37.5 percent stake in the former Ministry of Defence-owned business in February 2003, but NAO assistant auditor-general Jim Rickleton said it could have been "tens of millions" more. The payouts probe shows that another 245 senior managers made 14,400 percent profits on their shares during flotation. Rank and file employees received free share options worth £80 on the day. Sir John Chisholm, non-executive chairman, saw his investment of £130,000 transformed into £26m; Graham Love, ceo, gained £21m from his £110,000 investment and Brenda Jones, marketing director, gained £11m from her £60,000 investment. The report revealed that senior QinetiQ employees were able to help devise the incentive scheme, which later gave them huge returns, a practice the NAO said must be banned in any future privatisation. Sir John Bourn, the NAO's Comptroller and Auditor General, added: "It is of concern that the MoD did not seek specialist advice on the incentive scheme." QinetiQ, which employs 13,500 people, can trace its heritage from the birth of UK powered flight at Farnborough through the development of radar at Malvern during WW2.

Almost 50 people attended the recent **Centre-STEP Guernsey** conference for trustees at the Old Government House Hotel in St Peter Port, reported Centre associate director **Joel Lewis**: "This event provided a good mix of perspectives on the many issues facing ESOP trustees in changing times." Even a few Jerseyites braved the crossing, despite the traditional rivalry between the two key islands. **William Franklin** of Pinsents examined the different ways in which accounting standards treated the relationships between EBTs and their sponsoring company and showed that the structuring of a loan arrangement between the company and the EBT could mean the difference between a £1m change in net assets and a zero change in net assets, for accounting purposes. **David Craddock** drew together a wide range of research from the US and UK to demonstrate the empirical evidence in favour of ESOPs in many different aspects of performance - including total shareholder return, return on assets, executive perception, productivity, organisational stability, share price performance and sales growth. **Gareth Rowlands** of Towers Perrin backed the use of the Monte Carlo simulation for valuation of share plans under IFRS2/FRS20 accounting standards. **Alison MacKrill**, STEP Guernsey chair and MD at Turcan Connell, explained how SMEs can operate an internal market for employee shares, looking at issues such as capital reconstruction, how to ensure the trust always holds enough shares to satisfy demands, and handling employee expectations - using a case study to illustrate. **Amanda Chiltern** of Zokora Ltd (aka BDO Stoy Hayward, aka Chiltern Reward) examined the pros and cons of deferred payments, looking at the different ways of structuring the arrangement for different purposes and the need to communicate both the risks and the incentive clearly. The presentation also touched on the accounting issues for nil-paid shares and deferred payments, noting that at least one of the Big Four will account for the arrangement as a loan! **Charles Cooper** of BWCI gave a case study of an international employee share plan in action, examining the issues encountered in the setting up of the ESO for Lend Lease Corporation, using stapled securities to replicate the Australian incentives in the European plans - and the problems posed for the trustees by missing people resulting from staff turnover in Spain, and how these difficulties were resolved. **Catherine Gannon** of Gannons employment lawyers delivered a thorough overview of implementation issues for SMEs using employee share schemes including changes resulting from the new companies act, such as the new facility to admit written resolutions by electronic means, such as email or potentially even by text message. She noted the requirement to keep a record of these communications for ten years - which could be problematic in the case of texts.

Top dogs reward fest

The bosses of Britain's largest companies are being paid 109 times as much as the average worker, revealed a report by Incomes Data Services. While ordinary wage earners typically earned £30,000 last year, ceo pay has doubled over the past five years to £3.2million. It means top executives now collect more than twice as much in a week as most people do in a year. Steve Tatton, one of the report's authors said: "It is no surprise that the earnings of top directors continue to escalate given what's been happening to incentive scheme design. The potential maximum awards from all types of incentive scheme, bonus, share option and other long-term incentives have all been edging up and the rewards are being received today. What passed for maximum performance five years ago now passes for on-target levels of achievement."

The performance related elements of remuneration for ceos have increased significantly, revealed a survey conducted by Centre member **MM&K** and Manifest. Salaries now make up less than one quarter of total remuneration for the average FTSE100 ceo. This is in line with the combined code, which advises that performance related elements should make up a 'significant' proportion of total remuneration. For ceos, total median remuneration levels last year rose by 13 percent and salaries by seven percent. Total remuneration is base salary plus cash bonuses, benefits-in-kind, and the expected value of share options and other share plans. The median reward level for ceos in companies with a £1bn-£3bn turnover is well above £1m a year, while for companies with a turnover between £3bn and £10bn, the median level is £2m a year and more than £3m a year for the largest companies. The survey lists companies by market cap and includes data on all elements of the package for all levels of executive director. For more information and/or to buy the survey (price £300), contact cliff.weight@mm-k.com / 020 7283 7200.

ABI Guidelines

The new ABI guidelines were published this week. They will be reproduced on the Centre website with a dedicated forum to discuss them, and covered in full in January's *newspad* and at Davos.

On the move

Channel Islands based **Investec Trust** has appointed **Rosemary Marr**, deputy chairman of the Society of Trust and Estate Practitioners (STEP) Worldwide as a group consultant. Rosemary is well known in the trust sector and brings a wealth of international contacts and experience to her role with Investec Trust. She has been involved in the financial services industry in the UK and Jersey for 30 years, with significant experience gained at md and director level of both banking and non-banking trust company businesses. Her specialist areas include estate planning, structuring and the marketing and management of offshore trusts and companies. Her involvement with Eso and in particular employee benefit trusts began in 1990. She has helped the Centre considerably in its work with trustees on both Channel Islands. Rosemary is a member of the steering group involved in developing the Financial Services (Jersey) Law 1998 which regulates trust and company businesses in Jersey. Most recently she has been an industry representative member of working groups involved with changes to Jersey's Anti-Money Laundering Guidance Notes. She will be based in Jersey but will spend much of her time in Investec Trust's other jurisdictions of Guernsey, Geneva and Mauritius. Contact her at: Rosemary Marr + 44 (0)1534 512548 and e-mail: rosemary.marr@investectrust.com Visit Investec's website www.investectrust.com for more info. **Gabbi** (nee Hatton) who has moved to the Pearson Group, writes: "I decided to change jobs (from Tesco) and get married - hence my surname change from Hatton to Stopp- at the same time." Her co-ordinates are: **Gabbi Stopp** share plans manager, Pearson plc Tel: 0207 010 2252 Mob: 07912 476139 E: gabbi.stopp@pearson.com 80 Strand, London WC2R 0RL. Belgium based academic and financial participation expert **Francine van den Bulcke** has retired. Chairman Malcolm Hurlston paid her this tribute: "You have done a great deal to advance the understanding of the employee equity culture in Europe over the years through your researches and seminar contributions and we hope Brussels recognises that too." Francine's email is: francine.vandenbulcke@kubrussel.be

COMPANIES

Fyffes has granted fresh share options to senior executives, including 1m to its ceo David McCann. The options have an exercise price of 92p and can be exercised between September 2010 and September 2017. **Logista's** workforce will be given 60,000 free shares as part of the share plan designed by the Spanish logistics group to motivate its employees and ensure that they stay with the group. Logista's senior executives will receive 13,000 shares, while other employees will receive 47,000 in total. Neil Record and 18 of his employees became millionaires when **Record**, the currency investment management company, floated by means of an IPO. Overall, the 22 staff (out of 52) who together owned 100 percent of the company, sold a combined 25 percent stake for £88m. As **Royal Bank of Scotland** clinched victory in the takeover battle for **ABN Amro**, Rijkman Groenink resigned as chairman of the Dutch bank, having been granted €4.3m in severance pay (22 months pay + bonus). He will keep £18m worth of share awards and share options granted while he was still top dog. The RBS consortium includes Santander of Spain and Belgo-Dutch group Fortis. **Barclays** withdrew its bid, which had fallen in value to £43bn as the bank's share price declined. Outstanding ABN Amro shares and options earned by the board and staff prior to the takeover were cash settled at €37.88 a share. Share awards are linked to the performance of the bank, including the total return to shareholders (TRS) and the average return on equity (ROE). For the latest two cycles 2006-2009 and 2007-2010 the award (phantom shares) has been set at 150 percent.

CONFERENCES

Davos Jan 31 & Feb 1 2008: More than 40 people have registered for The European Centre's ninth global employee equity forum, which takes place in the five-star Steigenberger Belvedere Hotel in Davos on Thursday January 31 and Friday February 1. The speakers are Dilpreet Chatha of E & Y, Karen Cooper of Osborne Clarke, Barbara Seta of UBS, Ed Buckland of Bedell Group, Alan Judes of Strategic Remuneration, Kevin Lim of RBC CEES, Jeff Mamorsky and Eugene Weultjes of Greenberg Traurig, Peter Mossop of Capita Trustees, Michael Sterchi of KPMG, David Pett of Pinsent Masons, Paul Stoddart of HBOS Employee Equity Solutions, Mahesh Varia of Travers Smith and Michael Whalley of Minter Ellison. The full agenda can be seen on the Centre website at www.hurlstons.com/esop and click onto the 'events' tab. Member practitioner delegates pay £775 for the all-in (except travel) half-board hotel and conference package deal. Centre member plan issuer delegates pay only £275 for their accommodation + conference. Average snow depths on the Parsenn are already one metre. Return tickets from London to Zurich can be booked cheaply online. Centre member BA's website is at: www.ba.com Please email Fred Hackworth at fhackworth@hurlstons.com to register.

Cannes June 4-6, 2008: The European Centre's 20th anniversary conference takes place at the seafront Majestic Hotel in Cannes on Thursday June 5 and Friday June 6 and delegates can book places at the pre-conference dinner in Cannes on Wednesday evening. Those who wish to speak at this event should email their topic ideas to fhackworth@hurlstons.com

INTERNATIONAL

The trustees of the **eircom** share ownership trust have approved a payment of €45.7m to its members bringing the group's total distributions to more than €600m tax free. The windfall, averaging €3,300, was made in November to 14,300 eligible members. Back in May, the trust, which owns 35 percent of eircom, distributed €80m to its members. The payment came through the distribution of some of the preference shares the trust received at the time of Eircom's takeover last year by Babcock & Brown Capital. Under the terms of the ESOT, it must disburse its assets to members by 2014.

The Centre sends festive greetings to all its readers and best wishes for the New Year.

The Employee Share Ownership Centre Ltd is a members' organisation which lobbies, informs and researches on behalf of employee share ownership.