

# itm IRISH TAX MONITOR

## The Roundtable December 2023

### Share options

**F**ollowing approval by the European Commission, updates to Ireland's KEEP regime have recently commenced. Can you outline the changes and their implications for SMEs and employees utilising the share option scheme?

**Pat O'Brien – Senior Consultant, Employment Taxes, BDO:** The Ministerial order commencing a number of provisions contained in S.16 of the Finance Act 2022 was signed on 20 November. These provide for a number of key changes to the Key Employee Engagement Programme ('KEEP') following approval by the European Commission under state aid rules.

The amendments provide for the following:

- The extension of the scheme to the end of 2025. The scheme was due to terminate at the end of 2023.
- Shares acquired through company buyback of shares can now qualify for KEEP.
- A change that will permit existing shares to qualify for KEEP



**Pat O'Brien**

- (previously only new ordinary fully paid up shares could qualify)
- An increase in the limit for the total market value of issued but unexercised qualifying share options from €3 million to €6 million.

KEEP is a tax efficient share option scheme designed to facilitate the use of

share based remuneration by unquoted SME companies to attract key employees. Employees who exercise KEEP options are exempt from Income Tax, USC and PRSI on any gain arising on the acquisition of the shares. Capital Gains Tax is only paid when the shares are disposed of.

The extension of the sunset date for the scheme by a further two years will give certainty for companies considering granting tax efficient KEEP share options. The remaining changes will help to provide liquidity in the shares by permitting existing (as opposed to newly issued) shares to be used for the scheme. A related change will allow KEEP shares to qualify for CGT treatment on a company buyback of shares. Finally, the total number of KEEP share options that can be granted has doubled from €3 million to €6 million.

In many cases, an internal market such as a company buyback, will be the only mechanism that allows participating employees to cash in on their shareholding in unlisted SMEs. The recent changes will facilitate this and will be welcomed both by companies currently operating KEEP schemes, as well as by those that are considering introducing one.