



# Management Equity Plans in a Mobile World – Restricted Share Awards

Published on Alvarez & Marsal | Management Consulting | Professional Services

(<https://www.alvarezandmarsal.com>)

June 25, 2025

This short article highlights some of the complexities arising from the participation of internationally mobile employees in Management Equity Plans (MEPs) that often involve the award of restricted shares to mobile senior executives. MEPs continue to be an important tool in incentivising and retaining employees. However, the tax treatment has become increasingly complex given the continued growth of international management teams and because different jurisdictions often have different tax rules in this context. This complexity is compounded where participants move between jurisdictions during the course of the MEP.

This article considers some of the tax issues that arise when mobile employees hold shares in a company which forms part of the employer group, e.g. the typical sweet equity style MEP implemented by many companies where there is significant investment from private equity. This article does not address other forms of incentive award, e.g. stock options, restricted stock units etc. Such awards can be subject to different rules and should be considered separately.

## COMMON GLOBAL MOBILITY SCENARIOS

Whilst the situations in which the mobility issues are many and varied, there are a number of scenarios which we see consistently occurring.

Set out below are two examples of common scenarios. However, it is always important to take specific advice based on the actual facts and circumstances, otherwise, this could lead to adverse and unintended tax consequences.

### **Scenario 1 – US tax resident appointed as a director of a UK company and awarded shares in the UK or other group company**

Here we assume the US person does not become tax resident in the UK but will attend board meetings in the UK. Given the lack of UK tax residency, many assume that there can be no UK tax implications. However, the UK imposes full employment taxes on directors even where they are not employees. This is further exacerbated as, for directors, remuneration referable to time spent in the UK will be subject to employment taxes.

Given this, if the director acquires shares for less than “market value” (as assessed for UK tax purposes) such undervalue may be taxed as UK employment income. In the context of private equity MEPs this issue is often worsened because, for US tax purposes, it is possible to structure MEPs such that the (US) individuals pay very little (nominal) for their shares, i.e. under the “profits interests” regime. However, the UK does not recognise this planning and will value the MEP instruments on more usual valuation principles (usually by applying a forward looking valuation methodology). This inherently results in an undervalue for UK tax purposes. In most cases where a taxable undervalue arises, the company is subject to withholding (PAYE) obligations and may also be liable for social security. Given these are company withholding obligations, it is important that the company reviews its position.

The other major point in this scenario is making the appropriate tax election. For example, in both the US and the UK, it is important in the context of employee / director MEPs awards to make tax elections - 83(b) in the US and 431 in the UK. Without proper completion of these elections it is likely that that whole or part of the gain that arises on disposal of the shares could be taxed as employment income. For US citizens completion and filing 83(b) elections is a well-known requirement, but the need for a UK 431 election is often overlooked. There are restrictions as to when a 431 election can be made (and it is therefore important to assess the position before awarding shares under the MEP as there is a 14 day time limit to making a 431 election).

## **Scenario 2 – UK tax resident employee holding MEP shares and ceasing to be UK resident before disposal**

For these purposes we have assumed that the UK employee has completed a 431 election on acquisition of the shares and so expects to be subject to UK capital gains tax on the growth on value when the shares are sold.

If the employee leaves the UK while holding the MEP shares, they are, prior to selling, likely to have become tax resident in another country. The employee may therefore be holding shares that will be seen as employment related in the new country. Where this is the case the gain on sale (or part) could be subject to income tax rather than the usually more favourable capital gains tax rates.

Further, should the employee sell the shares and return to the UK within five years of leaving, they may be subject to the non-resident UK capital gains tax regime.

Reviewing the detail of the specific circumstances will be important in assessing whether double tax and / or cash flow issues arise.

## **‘HIDDEN’ MOBILITY ISSUES**

There can also be situations of ‘hidden’ mobility. For example US nationals may be UK tax resident and have lived/worked in the UK for many years. It is common in this situation that such individuals are not on the radar as being globally mobile. These employees will usually be subject to income tax/capital gains in both the UK and the US. Given that tax liabilities will be assessed under two regimes careful consideration of the position is needed in case to check whether any additional and/or unexpected tax liabilities arise.

## **SOCIAL SECURITY IMPLICATIONS**

The above focuses on the income tax and capital gains tax complexity of globally mobile participants in MEPs. Separate attention needs to be given to the social security implications. Whilst the general principle is that social security is only payable in one jurisdiction there are complexities especially as not all jurisdictions have bilateral agreements in place. Social security can be especially important as there are several jurisdictions in which social security contributions are not capped (employer and employee). This can add significant expense to the MEP program.

## **A&M EQUITY REWARD TEAM**

As highlighted in the above examples, global mobility creates a layer of complexity to MEPs. Our experienced team of Equity Reward specialists help clients navigate cross border issues that arise when MEP participants move countries and/or have a global role. Please reach out to Louise Jenkins or Chris Prout or your usual A&M contact.

**Source URL:** <https://www.alvarezandmarsal.com/thought-leadership/management-equity-plans-in-a-mobile-world-restricted-share-awards>

### **Authors:**

Louise Jenkins

Chris Prout

Nisus Larsen