Share Incentive Plans and your entitlement to benefits: IR177

This guidance explains what might happen to your entitlement to:

* contribution-based state benefits
* earnings-related state benefits
* means-tested state benefits
* tax credits
* work-related payments

if you buy shares offered by your employer through a Share Incentive Plan.

What is a Share Incentive Plan?

Some employers offer their employees the opportunity to buy, from their gross pay, partnership shares in the business under a Share Incentive Plan. If this applies to you, your employer will give you details of the plan, which will normally include a warning that you could lose some entitlement to state benefits and tax credits if you take part.

This guidance answers many of the questions you might have and explains why you should consider carefully the possible effects on your benefit and tax credit entitlement before you decide to buy partnership shares. It is not intended to give you advice on whether or not you should take part in a Share Incentive Plan. The information in this guidance is based on the rules that apply at the time of writing.

This guidance explains how buying shares might affect your benefit entitlement and describes the effect on:

* contribution-based benefits (eg, State Pension)
* work and earnings-related benefits (eg, Statutory Maternity Pay (SMP), Statutory Sick Pay (SSP)) from an employer
* tax credits (Working Tax Credit and Child Tax Credit)
* means-tested benefits (eg, Income Support; income-based Jobseeker’s Allowance (JSA); income-related Employment and Support Allowance (ESA); Pension Credit)
* married women paying reduced-rate National Insurance contributions

How will buying shares affect my benefit entitlement?

Under the Share Incentive Plan rules, you will not pay income tax or National Insurance contributions on the pay you use to buy shares. Although this means you get more shares for your money, it also:

* cuts the earnings on which you can pay National Insurance contributions
* may take your earnings for which National Insurance contributions are due below the lower earnings limit, which is £102 per week for the tax year 2011 to 2012

As your entitlement to some benefits is based on the amount of National Insurance contributions that you pay, and others on the amount of your earnings, buying shares may affect your current or future claims for a range of benefits.

For most employees, paying less in National Insurance contributions will not matter because:

* you may still be paying enough National Insurance contributions to qualify for benefits
* your taxable earnings may still be between £102 and £139 a week (the lower earnings limit and the Primary Threshold for tax year 2011 to 2012), so that you are still deemed to be paying National Insurance contributions and you can still build up benefit rights even though you are not actually paying National Insurance contributions
* you may already be earning below the lower earnings limit before you buy the shares
* if you only buy shares for a short period, your National Insurance contributions record will only be affected for that period, so the effect on your long term benefit entitlement will normally be minimal

Buying shares through a Share Incentive Plan may also affect your entitlement to SSP, SMP, the State Pension and any means-tested benefits or tax credits. You should consider these effects before you decide whether to buy shares. It may also affect entitlement to contribution-based benefits such as ESA.

How does buying shares affect contribution-based benefits?

Your entitlement to contribution-based benefits is related to the amount of National Insurance contributions that you have paid, or are treated as having paid or are credited. Buying shares may reduce the amount of earnings on which you pay tax and National Insurance contributions to below the lower earnings limit, so that you are no longer paying (or deemed to be paying) National Insurance contributions on your income. Even if your income remains above the lower earnings limit, because you are paying (or deemed to be paying) less in National Insurance contributions, this may reduce your entitlement to contribution-based benefits.

Employment and Support Allowance (contribution-based)

If your deductible earnings fall below the lower earnings limit, you may not be entitled to contribution-based ESA. If this happens, you may be entitled to income-related ESA, which is means-tested.

Jobseeker’s Allowance (contribution-based)

If your deductible earnings fall below the lower earnings limit, you may not be entitled to any JSA (contribution-based), as this benefit is paid at a set amount which cannot be reduced. If you have not paid (or are not deemed to have paid) enough National Insurance contributions, you will lose entitlement to this benefit. If this happens, you may still be able to claim JSA (income-based), which is a means-tested benefit.

State Pension

If you do not have enough qualifying years, you may only be entitled to a reduced State Pension or none at all when you reach State Pension age and claim it. If this happens, you may still be able to claim Pension Credit, which is a means-tested benefit.

How does buying shares affect earnings-related benefits?

Your entitlement to earnings-related benefits is based on the level of your earnings, not including any amounts you use to buy shares. If buying partnership shares brings your deductible earnings below the lower earnings limit, this will reduce your entitlement to these benefits.

Maternity Allowance (MA)

To get MA your earnings on average must be at least £30 a week. If after buying shares your average weekly earnings fall below £30 per week, you will lose your entitlement to MA. If your average weekly earnings are above £30, MA is paid at 90% of your average weekly earnings subject to a maximum weekly rate of £128.73 (April 2011).

The State Second Pension (formerly State Earnings-Related Pension Scheme)

If your annual income is between the lower earnings limit and £14,400, you are treated as if you earn £14,400 for the purposes of calculating your entitlement. Therefore, if buying partnership shares brings your earnings below the lower earnings limit, you will no longer be treated as if you earn £14,400, and this will reduce your entitlement to the State Second Pension.

How will buying shares affect work-related payments?

Work-related payments are paid by your employer and are based on your average earnings over a fixed period before you begin to receive them. Any amount of pay you use to buy shares is not included as part of your average earnings for calculating these payments, so they may be reduced if you buy shares from your gross pay.

Statutory Maternity Pay

If your average weekly earnings (calculated for SMP entitlement purposes) fall below the lower earnings limit, you will lose your entitlement to SMP. If this happens, you may still be entitled to MA, which is an earnings-related benefit.

If you qualify for SMP and your average weekly earnings are at least equal to the lower earnings limit, SMP is paid at 90% of your average weekly earnings with no upper limit for the first 6 weeks and a maximum standard rate of £128.73 (April 2011) for the next 33 weeks. If your employer operates an occupational maternity pay scheme, you may still be entitled to maternity pay through that scheme.

Statutory Sick Pay

If your average weekly earnings (calculated for SSP entitlement purposes) fall below the lower earnings limit, you will lose your right to SSP. If this happens, you may still be entitled to ESA if you meet the qualifying conditions. If your employer operates an occupational sick pay scheme, you may still be entitled to sick pay through that scheme

How will buying shares affect my tax credit entitlement?

The tax credits that can be affected are:

* Child Tax Credit
* Working Tax Credit

The amount of a Working Tax Credit or Child Tax Credit award depends on a number of factors, including the number of hours you work, how many children you have, whether you pay eligible childcare costs and the annual gross income (before the deduction of income tax and National Insurance contributions) of you and your spouse or partner. Broadly, you will have to report in the tax credits claim form income of a tax year - usually the last complete tax year before the year of the tax credits claim - which is taken into account for income tax purposes.

For tax credit purposes, if you make contributions from your earnings to buy shares in your employer’s company under a Share Incentive Plan, those contributions must be added back to your gross pay. Also, gains from securities (such as company shares, bonds etc) and securities options acquired in connection with your employment and which are charged to income tax as 'employment income', must be reported as such in your tax credit claim form.

How will buying shares affect my means-tested benefits?

The amount of capital you own, and the amount of your net income, affects your entitlement to means-tested benefits.

If you or your partner is receiving one of these benefits when you buy shares through the plan, because your net income (including the value of the shares you buy) rises, you may receive less benefit.

The market value of shares, however you buy them, is treated as capital, owning shares can reduce your entitlement to means-tested benefits if the share value takes your capital above the lower limit.

Means-tested benefits include:

* Council Tax Benefit
* Housing Benefit
* Income Support

* Income-based Jobseeker’s Allowance
* Income-related Employment and Support Allowance
* Pension Credit

How does buying shares affect married women paying reduced-rate National Insurance contributions?

If buying shares reduces your earnings to below the lower earnings limit, you will not be liable to pay National Insurance contributions and will not be treated as having paid them for benefit purposes.

If you are a married woman and your earnings are below the lower earnings limit for 2 consecutive tax years, and you are not self-employed in those years, you will automatically lose the right to pay reduced-rate National Insurance contributions.

Can I put money from my pay aside to buy shares later?

Only if your employer offers you this option. If so, you can accumulate money this way for up to 12 months before it is used to buy shares. Tax and National Insurance contributions are not deducted from this money.

Can I ask for a refund of this money?

Yes. However, when you receive the refund, because the money is no longer being used to buy shares, tax and National Insurance contributions will be deducted from it. These deductions could restore in part or in whole the benefit entitlement that you may have lost. The tax and National Insurance contributions you pay on the refund may also offset the additional net pay that you had received as a result of buying shares.

Further Information

You might find the following useful:

* leaflets about benefits and pensions are available from the Department for Work and Pensions (DWP), see the online catalogue or phone the DWP leaflet line on Telephone: 0845 731 3233
* information is also available at the benefits section and the working, jobs and pensions section

HM Revenue and Customs (HMRC) produces a wide range of leaflets, booklets and help sheets, each designed to explain different aspects of your tax or National Insurance in plain English, and to assist with the completion of tax returns. Most of them are free, and most are also available in Welsh. Our ranges of leaflets are available on this website.

HMRC also has a full range of services for people with disabilities, including leaflets in Braille, audio and large print. For details, please ask at your local HMRC office or Enquiry Centre.

Our service commitment to you

Information about our service commitment to you is available online at Your Charter.

Information on how to complain and our appeal procedures is available online at How to complain to HM Revenue and Customs.

These notes are for guidance only and reflect the tax and National Insurance contributions position at the time of writing. They do not affect any right of appeal.