

SCHEDULES

SCHEDULE 14

Section 62.

ENTERPRISE MANAGEMENT INCENTIVES: AMENDMENTS

Introductory

- 1 Schedule 14 to the Finance Act 2000 (enterprise management incentives) is amended in accordance with this Schedule.

Period of notice

- 2 In paragraph 2 (notice of option to be given to Inland Revenue), in subsection (1) for “30 days” substitute “92 days”.
- 3 In paragraph 4 (notice of enquiry), in sub-paragraph (4) for “30 days” substitute “92 days”.

General requirements to be met by option

- 4 In paragraph 8 (general requirements to be met by qualifying option), for paragraph (c) substitute—
- “(c) the maximum value of the relevant company’s shares in respect of which unexercised options can exist (see paragraph 11).”

Purpose of granting option

- 5 In paragraph 9 (purpose of granting the option), for “a key” substitute “an”.

Value of options in respect of a company’s shares

- 6 For paragraph 11 (number of employees who may hold qualifying options) substitute—

“Maximum value of options in respect of relevant company’s shares

- 11 (1) The total value of shares in the relevant company in respect of which unexercised qualifying options exist must not exceed £3 million.
- (2) An option is not a qualifying option if the limit in sub-paragraph (1) is already exceeded at the time it is granted.
- (3) If the grant of an option causes that limit to be exceeded the option is not a qualifying option so far as it relates to the excess.
- (4) Where the grant of two or more options at the same time causes that limit to be exceeded, then, for the purpose of determining which part of each option relates to that excess, the amount of the excess shall be divided

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pro rata among the options according to the value of the shares in respect of which each option was granted.

- (5) Sub-paragraphs (7) and (8) of paragraph 10 (determination of value of shares) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.”

Income tax: option to acquire shares at less than market value

- 7 In paragraph 45 (income tax charge on exercise of option to acquire shares at less than market value), for sub-paragraphs (2) to (4) substitute—

“(2) In that case for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised by the exercise of the option is taken to be the amount by which—

- (a) the chargeable market value, exceeds
- (b) the aggregate of—
 - (i) the amount or value of the consideration given for the grant of the option, and
 - (ii) the amount for which the shares are acquired.

(3) For the purposes of this paragraph “the chargeable market value” means—

- (a) the market value of the shares—
 - (i) at the time the option was granted, or
 - (ii) if it is a replacement value, at the time the original option was granted,
- or
- (b) if lower, the market value of the shares at the time the option is exercised.

(4) If the chargeable market value does not exceed the aggregate of the amounts mentioned in sub-paragraph (2)(b)(i) and (ii), no amount is chargeable to income tax under section 135 of the Taxes Act 1988 (taxation of share options) in respect of the exercise of the option.”

Income tax: option to acquire shares at nil cost

- 8 In paragraph 46 (income tax charge on exercise of option to acquire shares at nil cost), for sub-paragraph (2) substitute—

“(2) In that case for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised by the exercise of the option is taken to be the amount by which—

- (a) the chargeable market value (within the meaning of paragraph 45), exceeds
- (b) the amount or value of the consideration given for the grant of the option.

(2A) If the chargeable market value does not exceed the amount or value of the consideration given for the grant of the option, no amount is chargeable to income tax under section 135 of the Taxes Act 1988 (taxation of share options) in respect of the exercise of the option.”

Disqualifying events: alteration of share capital

- 9 In paragraph 47 (main disqualifying events), for sub-paragraph (1)(e) substitute—
- “(e) any alteration to the share capital of the relevant company that is within paragraph 49(1)—
 - (i) where the effect of the alteration is that the requirements of this Schedule would no longer be met in relation to the option, or
 - (ii) where the effect of the alteration is to increase the market value of the shares that are the subject of the qualifying option and paragraph 49(2) applies to the alteration;”.
- 10 (1) Paragraph 49 (disqualifying events: alterations of share capital) is amended as follows.
- (2) In sub-paragraph (1) for “this paragraph” substitute “this sub-paragraph”.
 - (3) For sub-paragraphs (2) to (5) (provision for approval of alteration by Inland Revenue) substitute—
 - “(2) This sub-paragraph applies to an alteration if—
 - (a) it is not made by the relevant company for commercial reasons, or
 - (b) the main purpose or one of the main purposes for making the alteration is to increase the market value of the shares which are the subject of the qualifying option.”

Income tax charge arising on disqualifying event

- 11 (1) Paragraph 53 (effect of disqualifying event) is amended as follows.
- (2) For sub-paragraph (2) substitute—
 - “(2) Where paragraph 44 applies (option to acquire shares at market value), then for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised on the exercise of the option is taken to be—
 - (a) the post-event gain (if any), less
 - (b) the amount or value of the consideration given for the grant of the option.
 - (2A) Where paragraph 45 applies (option to acquire shares at less than market value), then for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised on the exercise of the option is taken to be—
 - (a) the aggregate of—
 - (i) the chargeable market value (within the meaning of that paragraph), and
 - (ii) the post-event gain, less
 - (b) the aggregate of—
 - (i) the amount or value of the consideration given for the grant of the option, and
 - (ii) the amount for which the shares are acquired.

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(2B) Where paragraph 46 applies (option to acquire shares at nil cost), then for the purposes of section 135 of the Taxes Act 1988 (taxation of share options) the amount of the gain realised on the exercise of the option is taken to be—

- (a) the aggregate of—
 - (i) the chargeable market value (within the meaning of paragraph 45), and
 - (ii) the post-event gain, less
- (b) the amount or value of the consideration given for the grant of the option.

(2C) For the purposes of this paragraph “the post-event gain” means the amount (if any) by which—

- (a) the market value of the shares when the option is exercised, exceeds
- (b) their market value immediately before the disqualifying event.

(2D) Where—

- (a) the amount of the gain realised on the exercise of an option falls to be determined under sub-paragraph (2), (2A) or (2B) above, and
- (b) the amount mentioned in paragraph (b) of the sub-paragraph concerned exceeds the amount mentioned in paragraph (a) of that sub-paragraph,

no amount is chargeable to income tax under section 135 of the Taxes Act 1988 (taxation of share options) in respect of the exercise of the option.”

(3) In sub-paragraph (3) for “sub-paragraph (2)” substitute “sub-paragraphs (2), (2A) and (2B)”.

Qualifying requirements for replacement option

12 In paragraph 63 (qualifying requirements for replacement option), in paragraph (b) (ii) for “(number of employees who may hold qualifying options)” substitute “(maximum value of options in respect of relevant company’s shares)”.

Commencement

- 13 (1) The amendments made by paragraphs 2 to 6 and 12 have effect in relation to any right to acquire shares granted after the passing of this Act.
- (2) The amendments made by paragraphs 7, 8 and 11 have effect in relation to any right to acquire shares exercised after the passing of this Act.
- (3) The amendments made by paragraphs 9 and 10 have effect in relation to any alteration made to the share capital of a company after the passing of this Act.