



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

CHAPTER 9

TAXABLE BENEFITS: DISPOSALS OF SHARES FOR MORE THAN MARKET VALUE

198 Shares to which this Chapter applies

- (1) This Chapter applies to shares in a company which have, or an interest in shares in a company which has, been acquired by an employee or a person connected with an employee, if the right or opportunity to acquire the shares or interest in shares was available by reason of the employment.
- (2) In this Chapter, “employment-related shares” means shares, or an interest in shares, acquired as mentioned in subsection (1).
- (3) The shares may be in the employer, or in another company.
- (4) A right or opportunity to acquire shares or an interest in shares which is made available by the employer is to be regarded as made available by reason of the employment unless—
 - (a) the employer is an individual, and
 - (b) the right or opportunity is made available in the normal course of the employer’s domestic, family or personal relationships.

199 Disposal for more than market value: amount treated as earnings

- (1) This section applies if—

Status: This is the original version (as it was originally enacted).

- (a) employment-related shares are disposed of so that neither the employee nor any person connected with the employee any longer has a beneficial interest in them, and
 - (b) the disposal is for a consideration which exceeds the market value of the employment-related shares at the time of the disposal.
- (2) But this section does not apply if the disposal occurs after the death of the employee.
- (3) The amount given by the following formula is to be treated as earnings from the employee's employment for the tax year in which the disposal occurs—
- $$CD - MV$$
- where—
- CD is the amount or value of the consideration for the disposal, and
 - MV is the market value of the employment-related shares at the time of the disposal.
- (4) But if—
- (a) the employment has terminated or become an excluded employment before the disposal, and
 - (b) at the time of the acquisition of the employment-related shares the employee held, or was about to hold, the employment and it was not an excluded employment,
- this section applies as if the employment had not terminated or become an excluded employment.
- (5) If the employment-related shares consist of an interest in shares, the references in this section to the market value of the employment-related shares are to the proportion corresponding to the size of the interest of the market value of the shares in which the interest subsists.

200 Minor definitions

- (1) In this Chapter—
- “employee” includes a prospective employee;
 - “interest in shares” means an interest in shares less than full beneficial ownership and includes an interest in the proceeds of sale of part of the shares, but not a right to acquire shares;
 - “market value” has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act;
 - “shares” includes—
 - (a) stock, and
 - (b) any securities as defined in section 254(1) of ICTA.
- (2) In this Chapter references to the acquisition of shares or an interest in shares include receipt by way of allotment or assignment or in any other way.
- (3) In this Chapter “employment-related shares” has the meaning indicated in section 198(2).