



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 7

EMPLOYMENT INCOME: SHARE-RELATED INCOME AND EXEMPTIONS

CHAPTER 1

INTRODUCTION

417 Scope of Part 7

- (1) This Part contains special rules relating to directors or employees who acquire—
 - (a) shares in companies, or
 - (b) options relating to such shares,in connection with their office or employment.
- (2) The rules are contained in—
 - Chapter 2 (conditional interests in shares),
 - Chapter 3 (convertible shares),
 - Chapter 4 (post-acquisition benefits from shares),
 - Chapter 5 (share options),
 - Chapter 6 (approved share incentive plans),
 - Chapter 7 (approved SAYE option schemes),
 - Chapter 8 (approved CSOP schemes),
 - Chapter 9 (enterprise management incentives), and
 - Chapter 10 (priority share allocations).
- (3) The following make provision for amounts to count as employment income of directors or employees—

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Chapters 2 to 6, and
 Chapter 8.

- (4) The following make provision for exemptions and reliefs from income tax—
 Chapter 2, and
 Chapters 5 to 10.
- (5) Chapter 11 contains supplementary provisions relating to employee benefit trusts.

418 Other provisions about share-related income and exemptions

- (1) The following provisions of this Act also deal with share-related income and exemptions—
 Chapter 8 of Part 3 (taxable benefits: notional loans in respect of acquisitions of shares),
 Chapter 9 of Part 3 (taxable benefits: disposals of shares for more than market value), and
 Part 7 of Schedule 7 (transitional provisions relating to share-related income).
- (2) In addition, share-related income may fall within—
 (a) Chapter 1 of Part 3 (earnings), or
 (b) Chapter 10 of Part 3 (taxable benefits: residual liability to charge).
- (3) In view of section 49 of FA 2000 (phasing out of APS schemes) the following are not rewritten in this Act and continue in force unaffected by the repeals made by this Act—
 section 186 of ICTA (APS schemes) and section 187 of that Act (interpretation) so far as relating to APS schemes,
 Schedule 9 to ICTA (approval of share schemes) so far as relating to APS schemes and Schedule 10 to that Act (further provisions about APS schemes).
 “APS schemes” means profit sharing schemes approved under Schedule 9 to ICTA.
- (4) Sections 138 to 140 of ICTA (share acquisitions by directors and employees) continue to apply in relation to shares or interests in shares acquired before 26th October 1987 (see paragraph 57 of Schedule 7).

419 Duties to provide information

- (1) The following contain duties to supply information about the acquisition of shares or interests in shares by directors or employees—
 section 432 (provision of conditional interest in shares),
 section 465 (general duty to notify acquisition of shares or interests in shares by employees or directors).
- (2) The following contain duties to supply information about other matters that may result in amounts counting as employment income of directors or employees—
 section 433 (events resulting in charge under section 427),
 section 445 (conversion of shares),
 section 466 (chargeable events and receipt of chargeable benefits).
- (3) Section 486 contains a duty to provide information about the grant of share options and other matters relating to them.

- (4) Paragraph 52 of Schedule 5 (enterprise management incentives) contains a duty to deliver annual returns where a company's shares are subject to a qualifying option within the meaning of that Schedule.

420 Negative amounts treated as nil

- (1) This section applies if the result given by any formula under any provision of this Part would otherwise be a negative amount.
- (2) The result is to be taken to be nil instead.

421 Application of Part 7 to office-holders

- (1) As indicated in section 417, this Part contains provisions relating to directors as well as employees.
- (2) But section 5(1) (application of employment income Parts to office-holders generally) does not apply to any of the provisions of this Part.
- (3) This is subject to section 549(5) (application of Chapter 11 of this Part).

CHAPTER 2

CONDITIONAL INTERESTS IN SHARES

Introduction

422 Application of this Chapter

- (1) This Chapter applies where—
- (a) a person (“the employee”) acquires a beneficial interest in shares in a company as a director or employee of that or another company, and
 - (b) the interest is acquired on terms that make it only conditional.
- (2) In this Chapter—
- “the employee’s interest” means the beneficial interest in shares acquired by the employee as mentioned in subsection (1);
 - “the employer company” means the company as a director or employee of which the employee’s interest is acquired;
 - “the shares” means the shares mentioned in subsection (1)(a);
- and “director” and “employee” have the extended meaning given by section 434(1).

423 Interests in shares acquired “as a director or employee”

- (1) For the purposes of this Chapter a person (“E”) acquires an interest in shares “as a director or employee” of a company if E acquires the interest in pursuance of—
- (a) a right conferred on, or opportunity offered to, E by reason of E’s office or employment as a director or employee of the company;

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- (b) a right or opportunity assigned to E, having been conferred on or offered to some other person by reason of E's office or employment as a director or employee of the company; or
 - (c) an assignment, the interest having been acquired by some other person by reason of E's office or employment as a director or employee of the company.
- (2) The references in subsection (1) to a right or opportunity conferred or offered by reason of E's office or employment include—
 - (a) one so conferred or offered after E has ceased to hold the office or employment, and
 - (b) one that arises from the fact that shares—
 - (i) which E acquired as a director or employee (or is treated as so acquiring by virtue of this paragraph), or
 - (ii) in which E so acquired an interest, were convertible shares.
- (3) A person who—
 - (a) has acquired an interest in shares which is only conditional, convertible shares or an interest in convertible shares,
 - (b) acquired that interest or those shares as a director or employee of a company, or is treated by virtue of this subsection as having done so, and
 - (c) as a result of any two or more transactions—
 - (i) ceases to be entitled to that interest or those shares, and
 - (ii) becomes entitled to another interest in shares which is only conditional or to any convertible shares or to an interest in convertible shares,

is to be treated for the purposes of this Chapter as if the interest or shares mentioned in paragraph (c)(ii) were also acquired as a director or employee of the company.
- (4) Subsection (3) also applies where the interest or shares mentioned in subsection (3) (c)(ii) were acquired by a person connected with the first-mentioned person.
- (5) Nothing in subsection (3) or (4) affects the rights or opportunities included by virtue of subsection (2)(b).
- (6) In this section “convertible shares” has the same meaning as in Chapter 3 of this Part (convertible shares) (see section 435(2) and the definition of shares in section 446(1)).

424 Meaning of interest being “only conditional”

- (1) For the purposes of this Chapter an interest in shares is “only conditional” for so long as the terms on which the person is entitled to it—
 - (a) provide that if certain circumstances arise, or do not arise, there will be a transfer, reversion or forfeiture as a result of which that person will cease to be entitled to any beneficial interest in the shares, and
 - (b) are not such that, on the transfer, reversion or forfeiture, that person will be entitled to receive in respect of the interest an amount that is equal to or more than its market value at that time.
- (2) But a person is not to be regarded as having an interest in shares which is only conditional by reason only that one or more of the following is the case—

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- (a) the shares are unpaid or partly paid and may be forfeited for non-payment of calls, in a case where there is no restriction on the meeting of calls by that person;
 - (b) the articles of association of the company require the shares to be offered for sale or transferred, if that person ceases to hold a relevant office or employment;
 - (c) that person may be required to offer the shares for sale or transfer them on ceasing, as a result of misconduct, to hold a relevant office or employment;
 - (d) in the case of an interest in a security, the security may be redeemed on payment of any amount.
- (3) In subsection (1)(a) the references, in relation to the terms of a person's entitlement, to circumstances arising include references to—
 - (a) the expiry of a period specified in or determined under those terms,
 - (b) the death of that or any other person, and
 - (c) the exercise by any person of a power conferred on that person by or under those terms.
- (4) For the purposes of subsection (1)(b) the market value of the interest is to be determined as if there were no provision for transfer, reversion or forfeiture.
- (5) In subsection (2)(b) “articles of association” includes, in the case of a company incorporated under the law of a country outside the United Kingdom, any equivalent document relating to the company.
- (6) The references in subsection (2)(b) and (c) to a person ceasing to hold a relevant office or employment are to that person ceasing to be an officer or employee of the company in question, or of one or more group companies or of any group company.
- (7) For the purposes of subsection (6)—
 - (a) a company is a “group company” in relation to another company if they are members of the same group, and
 - (b) companies are taken to be members of the same group if, and only if, one is a 51% subsidiary of the other or both are 51% subsidiaries of a third company.

425 Cases where this Chapter does not apply

- (1) This Chapter does not apply where a person acquires a beneficial interest in shares as a director or employee of a company if the earnings from the office or employment in question were not (or would not have been if there had been any) general earnings to which section 15 or 21 applies (earnings for year when employee resident and ordinarily resident in the UK).
- (2) This Chapter does not apply by virtue of section 423(2)(a) (right or opportunity conferred or offered after person has ceased to hold office or employment) if it would not apply if the right or opportunity had been conferred or offered in the last tax year in which the office or employment was held.

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Tax exemption

426 No charge in respect of acquisition of employee's interest in certain circumstances

- (1) Subsection (2) applies if the terms on which the employee acquires the employee's interest are such that the interest will cease to be only conditional within 5 years after its acquisition.
- (2) No liability to income tax arises in respect of the acquisition of the employee's interest, except as provided by—
 - (a) Chapter 8 of Part 3 (taxable benefits: notional loans in respect of acquisitions of shares), or
 - (b) section 476 (charge on exercise of share option by employee).

Tax charge

427 Charge on interest in shares ceasing to be only conditional or on disposal

- (1) This section applies if—
 - (a) the shares cease, without the employee ceasing to have a beneficial interest in them, to be shares in which the employee's interest is only conditional, or
 - (b) in a case where the shares have not so ceased, the employee sells or otherwise disposes of the employee's interest or any other beneficial interest in the shares.
- (2) The taxable amount determined under section 428 counts as employment income of the employee for the relevant tax year.
- (3) The "relevant tax year" is the tax year in which the shares cease to be shares in which the employee's interest is only conditional, or in which the sale or other disposal takes place.
- (4) Subsection (2) is subject to section 494 (approved SIPs: no charge on removal of restrictions).

428 Amount of charge

- (1) The taxable amount for the purposes of section 427 (charge on interest in shares ceasing to be only conditional or on disposal) is—

MV DA

where—

MV is the market value of the employee's interest immediately after it ceases to be only conditional or, as the case may be, at the time of the sale or other disposal, and

DA is the total of any deductible amounts.

- (2) For the purposes of subsection (1) each of the following is a "deductible amount"—
 - (a) the amount or value of any consideration given for the employee's interest;

- (b) any amount that constitutes earnings from the employee's employment under Chapter 1 of Part 3 (earnings) in respect of the acquisition of the employee's interest;
 - (c) any amount that is treated as earnings from the employee's employment under Chapter 8 of Part 3 (taxable benefits: notional loans in respect of acquisitions of shares) in respect of the acquisition; and
 - (d) if the employee's interest was acquired by the exercise of a share option, any amount that counts as employment income of the employee under section 476 (charge on employee on exercise etc. of option) in respect of the exercise.
- (3) If, not later than the event referred to in section 427(1)(a) or (b) occurred in relation to the employee's interest, a different event occurred in respect of the shares by virtue of which an amount counts as employment income of the employee under—
 - (a) section 449 (charge on occurrence of chargeable event), or
 - (b) section 453 (charge on increase in value of shares of dependent subsidiary),that amount is a “deductible amount” for the purposes of subsection (1).
- (4) The references in subsection (3) to an event include the expiry of a period.
- (5) Section 541(2) (effects of the EMI code on other income tax charges) also provides that an amount is to be regarded as a “deductible amount” for the purposes of subsection (1).

Supplementary provisions

429 Amount or value of consideration given for employee's interest

- (1) This section applies for the purposes of section 428 (amount of charge) in determining the amount or value of the consideration given for the employee's interest.
- (2) Subject to the following provisions of this section, that consideration is any given in respect of the acquisition of an interest in the shares by—
 - (a) the employee, or
 - (b) if section 423(1)(c) applies, the person by whom the interest in the shares was acquired.
- (3) The amount or value of the consideration given by a person for an interest in the shares includes the amount or value of any consideration given—
 - (a) for a right to acquire the shares, and
 - (b) for anything by virtue of which the employee's interest in the shares ceases to be only conditional.
- (4) If any consideration is given partly in respect of one thing and partly in respect of another, the amount given in respect of the different things is to be determined on a just and reasonable apportionment.
- (5) The consideration which for the purposes of this section is taken to be given wholly or partly for anything does not include the performance of any duties of, or in connection with, the office or employment by reference to which the interest in the shares in question has been acquired by a person as a director or employee of a company.
- (6) No amount is to be counted more than once in calculating the amount or value of any consideration.

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430 Amount or value of consideration given for right to acquire shares

- (1) This section applies for the purposes of section 429(3)(a) in determining the amount or value of any consideration given for a right to acquire shares.
- (2) Subsection (3) applies if the right to acquire shares (“the new option”) is the whole or part of the consideration for the assignment or release of another right to acquire shares (“the old option”).
- (3) The amount or value of the consideration given for the new option is to be treated as being the sum of—
 - (a) the amount by which the amount or value of the consideration given for the grant of the old option exceeds the amount or value of any consideration for the assignment or release of the old option, apart from the new option, and
 - (b) any valuable consideration given for the grant of the new option, apart from the old option.
- (4) Two or more transactions are to be treated for the purposes of subsection (2) as a single transaction by which a right to acquire shares is assigned for a consideration which consists of or includes another right to acquire shares if—
 - (a) the transactions result in—
 - (i) a person ceasing to hold a right to acquire shares, and
 - (ii) that person or a connected person coming to hold another right to acquire shares, and
 - (b) one or more of the transactions is effected under arrangements to which two or more persons who hold rights to acquire shares, in respect of which there may be a liability to tax under Chapter 5 of this Part (share options), are parties.
- (5) Subsection (4) applies regardless of the order in which the assignment and the acquisition occur.
- (6) In this section “release” includes agreeing to the restriction of the exercise of the right.

431 Application of this Chapter where employee dies

- (1) If the employee dies holding the employee’s interest, this Chapter applies as if the employee had disposed of the interest immediately before dying.
- (2) The market value of the interest at the time of that disposal is to be determined for the purposes of section 428 (amount of charge) on the basis—
 - (a) that it is known that the disposal is being made immediately before the employee’s death, and
 - (b) that any restriction on disposal is to be disregarded in so far as it is a restriction terminating on the employee’s death.

432 Duty to notify provision of conditional interests in shares

- (1) Subsection (2) applies if—
 - (a) a person provides an individual with an interest in shares which is only conditional, and
 - (b) the circumstances are such that subsequent events may result in an amount counting as employment income of that individual under section 427 (charge on interest in shares ceasing to be only conditional or on disposal).

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- (2) Each of the following persons—
 - (a) the person providing the interest in shares, and
 - (b) the employer company,must provide the Inland Revenue with particulars in writing of the interest and its provision.
- (3) The particulars must be provided before 7th July in the tax year following that in which the interest is provided.

433 Duty to notify events resulting in charges under section 427

- (1) Subsection (2) applies if—
 - (a) a person has an interest in shares which is only conditional,
 - (b) either—
 - (i) the shares cease to be shares in which that person's interest is only conditional,
 - (ii) the shares are disposed of, or
 - (iii) that person dies, and
 - (c) by virtue of that event an amount counts as employment income under section 427 (charge on interest in shares ceasing to be only conditional or on disposal).
- (2) Each of the following persons—
 - (a) the person who provided the interest in shares, and
 - (b) the employer company,must provide the Inland Revenue with particulars in writing of the interest and the event.
- (3) The particulars must be provided before 7th July in the tax year following that in which the event occurs.

434 Minor definitions

- (1) In this Chapter—
 - “director”—
 - (a) in the case of a company whose affairs are managed by a board of directors or similar body, means a member of that board or similar body,
 - (b) in the case of a company whose affairs are managed by a single director or similar person, means that director or person,
 - (c) in the case of a company whose affairs are managed by its members, means a member,and includes any person who is to be or has been a director;
 - “employee” includes—
 - (a) in relation to a company, a person taking part in the management of the affairs of the company who is not a director, and
 - (b) a person who is to be or has been an employee;
 - “market value”, in relation to an interest in shares, means the amount that might reasonably be expected to be obtained from a sale of the interest in the open market;

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“shares” (except in section 423 in the expression “convertible shares”) includes—

- (a) stock,
- (b) securities issued by a company, and
- (c) any other interest of a member of a company;

“terms” on which a person is entitled to an interest in shares means terms imposed by contract or arrangement or in any other way.

(2) In this Chapter—

- “the employee”,
- “the employee’s interest”,
- “the employer company”, and
- “the shares”,

have the meaning indicated in section 422(1) and (2).

CHAPTER 3

CONVERTIBLE SHARES

Introduction

435 Application of this Chapter

(1) This Chapter applies where a person (“the employee”)—

- (a) has acquired convertible shares or an interest in such shares in a company, and
- (b) did so as a director or employee of that or another company.

(2) For the purposes of this Chapter shares are “convertible” if—

- (a) they confer on the holder an immediate or conditional entitlement to convert them into shares of a different class, or
- (b) they are held on terms that authorise or require the grant of such an entitlement to the holder if certain circumstances arise, or do not arise.

(3) The references, in relation to the terms of a person’s entitlement, to circumstances arising include references to—

- (a) the expiry of a period specified in or determined under those terms,
- (b) the death of that or any other person, and
- (c) the exercise by any person of a power conferred on that person by or under those terms.

(4) In this Chapter—

“the employer company” means the company as a director or employee of which the employee acquired the convertible shares or the interest in them, and

“the shares” means the shares mentioned in subsection (1)(a);

and “director” and “employee” have the extended meaning given by section 446(1).

436 Shares acquired “as a director or employee”

- (1) For the purposes of this Chapter a person (“E”) acquires shares or an interest in shares “as a director or employee” of a company if E acquires the shares or interest in pursuance of—
 - (a) a right conferred on, or opportunity offered to, E by reason of E’s office or employment as a director or employee of the company;
 - (b) a right or opportunity assigned to E, having been conferred on or offered to some other person by reason of E’s office or employment as a director or employee of the company; or
 - (c) an assignment, the shares or interest having been acquired by some other person by reason of E’s office or employment as a director or employee of the company.
- (2) The references in subsection (1) to a right or opportunity conferred or offered by reason of E’s office or employment include—
 - (a) one so conferred or offered after E has ceased to hold the office or employment, and
 - (b) one that arises from the fact that shares—
 - (i) which E acquired as a director or employee (or is treated as so acquiring by virtue of this paragraph), or
 - (ii) in which E so acquired an interest,were convertible shares.
- (3) A person who—
 - (a) has acquired an interest in shares which is only conditional, convertible shares or an interest in convertible shares,
 - (b) acquired that interest or those shares as a director or employee of a company, or is treated by virtue of this subsection as having done so, and
 - (c) as a result of any two or more transactions—
 - (i) ceases to be entitled to that interest or those shares, and
 - (ii) becomes entitled to another interest in shares which is only conditional or to any convertible shares or to an interest in convertible shares,is to be treated for the purposes of this Chapter as if the interest or shares mentioned in paragraph (c)(ii) were also acquired as a director or employee of the company.
- (4) Subsection (3) also applies where the interest or shares mentioned in subsection (3) (c)(ii) were acquired by a person connected with the first-mentioned person.
- (5) Nothing in subsection (3) or (4) affects the rights or opportunities included by virtue of subsection (2)(b).
- (6) In this section “an interest in shares which is only conditional” has the same meaning as in Chapter 2 of this Part (conditional interests in shares) (see section 424 and the definition of shares in section 434(1)).

437 Cases where this Chapter does not apply

- (1) This Chapter does not apply where a person has acquired convertible shares or an interest in such shares as a director or employee of a company if the earnings from

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the office or employment in question were not (or would not have been if there had been any) general earnings to which section 15 or 21 applies (earnings for year when employee resident and ordinarily resident in the UK).

- (2) This Chapter does not apply by virtue of section 436(2)(a) (right or opportunity conferred or offered after person has ceased to hold office or employment) if it would not apply if the right or opportunity had been conferred or offered in the last tax year in which the office or employment was held.

Tax charge

438 Charge on conversion of shares

- (1) This section applies if, at a time when the employee has a beneficial interest in them, the shares are converted into shares of a different class in pursuance of an entitlement to convert them which has been conferred on the holder.
- (2) The taxable amount determined under section 439 counts as employment income of the employee for the relevant tax year.
- (3) The “relevant tax year” is the tax year in which the conversion occurs.
- (4) This section is subject to—
 section 440 (case outside charge under this section: conversion of entire class),
 and
 section 441 (case outside charge under this section: acquisition of conditional interest).

439 Amount of charge

- (1) The taxable amount for the purposes of section 438 (charge on conversion of shares) is—

$$MV - DA$$

where—

MV is the market value of the shares into which the convertible shares are converted at the time of the conversion, and

DA is the total of any deductible amounts.

- (2) For the purposes of subsection (1) each of the following is a “deductible amount”—
- (a) the amount or value of any consideration given for the convertible shares or for the interest in them;
 - (b) the amount or value of any consideration given for the conversion;
 - (c) any amount that constitutes earnings from the employee’s employment under Chapter 1 of Part 3 (earnings) in respect of the acquisition of the convertible shares or the interest in them;
 - (d) any amount that is treated as earnings from the employee’s employment under Chapter 8 of Part 3 (taxable benefits: notional loans in respect of acquisitions of shares) in respect of the acquisition;
 - (e) if the convertible shares were, or the interest in them was, acquired by the exercise of a share option, any amount that counts as employment income

- of the employee under section 476 (charge on employee on exercise etc. of option) in respect of the exercise; and
- (f) if the convertible shares were, or the interest in them was, acquired through a series of conversions each of which was a taxable conversion, the taxable amount for each conversion, so far as not falling within paragraph (c), (d) or (e).
- (3) If, not later than the conversion, an event occurred in respect of the shares by virtue of which an amount counts as employment income of the employee under—
- (a) section 449 (charge on occurrence of chargeable event), or
 - (b) section 453 (charge on increase in value of shares of dependent subsidiary),
- that amount is a “deductible amount” for the purposes of subsection (1).
- (4) Section 541(2) (effects of the EMI code on other income tax charges) also provides that an amount is to be regarded as a “deductible amount” for the purposes of subsection (1).
- (5) For the purposes of subsection (1) the “market value” of shares means the amount that might reasonably be expected to be obtained from a sale of the shares in the open market.
- (6) In subsection (2) “taxable conversion” means a conversion which—
- (a) resulted in an amount counting as employment income under section 438, or
 - (b) would have done so but for the fact that the market value of the shares at the time of the conversion did not exceed the sum of the deductible amounts.
- (7) The reference in subsection (3) to an event includes the expiry of a period.

440 Case outside charge under section 438: conversion of entire class

- (1) Section 438 (charge on conversion of shares) does not apply if—
- (a) the conversion is a conversion of shares of one class only (“the original class”) into shares of one other class only (“the new class”), and
 - (b) all shares of the original class are converted into shares of the new class, and
 - (c) condition A or B is met.
- (2) Condition A is that immediately before the conversion the majority of the company’s shares of the original class are not held by or for the benefit of—
- (a) directors or employees of the company,
 - (b) an associated company of the company, or
 - (c) directors or employees of such an associated company.
- (3) Condition B is that immediately before the conversion the company is employee-controlled by virtue of holdings of shares of the original class.
- (4) A company is “employee-controlled” by virtue of holdings of shares of a class if—
- (a) the majority of the company’s shares of that class (other than any held by or for the benefit of an associated company) are held by or for the benefit of employees or directors of the company or a company controlled by the company, and
 - (b) those directors and employees are together able as holders of the shares to control the company.

(5) In this section “associated company” has the meaning given by section 416 of ICTA.

441 Case outside charge under section 438: acquisition of conditional interest

- (1) Section 438 (charge on conversion of shares) does not apply if the interest which the employee acquires in the shares into which the convertible shares are converted is an interest which is only conditional.
- (2) “Only conditional” has the same meaning as in Chapter 2 of this Part (see section 424).

Supplementary provisions

442 Amount or value of consideration given for shares or conversion

- (1) This section applies for the purposes of section 439 (amount of charge) in determining the amount or value of the consideration given for the convertible shares, or for the interest in them, or for the conversion.
- (2) Subject to the following provisions of this section, the consideration given for the convertible shares, or for the interest in them, is any consideration given in respect of the acquisition by—
 - (a) the employee, or
 - (b) if section 436(1)(c) applies, the person by whom the shares were, or interest was, acquired.
- (3) The amount or value of the consideration given by a person for shares, or an interest in shares, includes the amount or value of any consideration given for a right to acquire the shares or interest.
- (4) If any consideration is given partly in respect of one thing and partly in respect of another, the amount given in respect of the different things is to be determined on a just and reasonable apportionment.
- (5) The consideration which for the purposes of this section is taken to be given wholly or partly for anything does not include the performance of any duties of, or in connection with, the office or employment by reference to which the shares or interest in question have been acquired by a person as a director or employee of a company.
- (6) No amount is to be counted more than once in calculating the amount or value of any consideration.

443 Amount or value of consideration given for right to acquire shares

- (1) This section applies for the purposes of section 442(3) in determining the amount or value of any consideration given for a right to acquire shares.
- (2) Subsection (3) applies if the right to acquire shares (“the new option”) is the whole or part of the consideration for the assignment or release of another right to acquire shares (“the old option”).
- (3) The amount or value of the consideration given for the new option is to be treated as being the sum of—

- (a) the amount by which the amount or value of the consideration given for the grant of the old option exceeds the amount or value of any consideration for the assignment or release of the old option, apart from the new option, and
 - (b) any valuable consideration given for the grant of the new option, apart from the old option.
- (4) Two or more transactions are to be treated for the purposes of subsection (2) as a single transaction by which a right to acquire shares is assigned for a consideration which consists of or includes another right to acquire shares if—
 - (a) the transactions result in—
 - (i) a person ceasing to hold a right to acquire shares, and
 - (ii) that person or a connected person coming to hold another right to acquire shares, and
 - (b) one or more of the transactions is effected under arrangements to which two or more persons who hold rights to acquire shares, in respect of which there may be liability to tax under Chapter 5 of this Part (share options), are parties.
- (5) Subsection (4) applies regardless of the order in which the assignment and the acquisition occur.
- (6) In this section “release” includes agreeing to the restriction of the exercise of the right.

444 Conversion in consequence of employee’s death

- (1) Subsection (2) applies if—
 - (a) the employee dies holding an interest in convertible shares,
 - (b) those shares are converted into shares of a different class either on, or within 12 months after, the death, and
 - (c) the conversion takes place wholly or partly as a consequence of the death.
- (2) This Chapter applies as if the conversion had taken place immediately before the death and had been in pursuance of an entitlement to convert conferred on the deceased.

445 Duty to notify conversions of shares

- (1) Subsection (2) applies if—
 - (a) a person has provided an individual with convertible shares in a company, or an interest in such shares,
 - (b) those shares are subsequently converted into shares of a different class, and
 - (c) the circumstances are such that the conversion results or may result in an amount counting as employment income of that individual under section 438 (charge on conversion of shares).
- (2) Each of the following persons—
 - (a) the person who provided the shares or interest, and
 - (b) the employer company,must provide the Inland Revenue with particulars in writing of the shares and their conversion.
- (3) The particulars must be provided before 7th July in the tax year following that in which the conversion takes place.

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

446 Minor definitions

(1) In this Chapter—

“director”—

- (a) in the case of a company whose affairs are managed by a board of directors or similar body, means a member of that board or similar body,
- (b) in the case of a company whose affairs are managed by a single director or similar person, means that director or person,
- (c) in the case of a company whose affairs are managed by its members, means a member,

and includes any person who is to be or has been a director;

“employee” includes—

- (a) in relation to a company, a person taking part in the management of the affairs of the company who is not a director, and
- (b) a person who is to be or has been an employee;

“shares” (except in section 436 in the expression “an interest in shares which is only conditional”) includes stock and any other interest of a member of a company;

“terms” on which a person holds shares or an interest in shares means terms imposed by contract or arrangement or in any other way.

(2) In this Chapter—

“the employee”,

“the employer company”, and

“the shares”,

have the meaning indicated in section 435(1) and (4).

CHAPTER 4

POST-ACQUISITION BENEFITS FROM SHARES

Introduction

447 Application of this Chapter

(1) This Chapter applies where a person (“the employee”)—

- (a) acquires shares or an interest in shares in a company, and
- (b) does so as a director or employee of that or another company.

(2) In this Chapter (unless the context indicates a different meaning)—

“the acquisition” means the acquisition of shares or an interest in shares mentioned in subsection (1)(a);

“the shares” means the shares mentioned there;

and “director” and “employee” have the extended meaning given by section 470(1).

(3) The company as a director or employee of which the employee acquires the shares or the interest in them is “the employer company” for the purposes of this Chapter.

- (4) For the purposes of this Chapter a person (“E”) acquires shares or an interest in shares “as a director or employee” of a company if E acquires the shares or interest in pursuance of—
- (a) a right conferred on, or an opportunity offered to, E by reason of E’s office as a director of, or E’s employment by, the company; or
 - (b) a right assigned to E after having been conferred on some other person by reason of E’s office as a director of, or E’s employment by, the company.
- (5) In addition, if a person (“A”) acquires shares or an interest in shares in a company in pursuance of a right conferred on, or opportunity offered to, A as a person connected with a director or employee of that or another company (“the company”), the director or employee is to be treated for the purposes of this Chapter—
- (a) as acquiring the shares or interest “as a director or employee” of the company, and
 - (b) as holding any beneficial interest in the shares for the time being held by A; and subsections (1) to (3) apply accordingly.
- (6) Section 463 provides for a person to be treated as continuing to have a beneficial interest in shares until there is a qualifying disposal for the purposes of that section.

448 Cases where this Chapter does not apply

- (1) This Chapter does not apply where a person has acquired shares or an interest in shares as a director or employee of a company if the earnings from the office or employment in question were not (or would not have been if there had been any) general earnings to which section 15 or 21 applies (earnings for year when employee resident and ordinarily resident in the UK).
- (2) This Chapter does not apply where a person has acquired shares or an interest in shares under the terms of an offer to the public.
- (3) In a case within section 544(1) (exemption for priority share allocations where offer to employees separate from public offer), any acquisition made under the terms of either the public offer or the employee offer within the meaning of that section is to be treated for the purposes of this Chapter as made under the terms of an offer to the public.
- (4) Subsection (3) applies whether or not there is any benefit within section 544(2) (benefit derived from entitlement to priority allocation exempt from income tax).

Tax charge where restrictions or rights varied

449 Charge on occurrence of chargeable event

- (1) This section applies if a chargeable event occurs in relation to the shares at a time when the employee has not ceased to have a beneficial interest in them.
- (2) The taxable amount determined under section 451 counts as employment income of the employee for the relevant tax year.
- (3) The “relevant tax year” is the tax year in which the chargeable event occurs.
- (4) Section 450 explains what are chargeable events for the purposes of this section.

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

- (5) This section is subject to—
 section 452 (cases outside charge under this section),
 section 494 (approved SIPs: no charge on removal of restrictions),
 section 520 (approved SAYE option schemes: no charge in respect of post-acquisition benefits), and
 section 525 (approved CSOP schemes: no charge in respect of post-acquisition benefits).

450 Chargeable events

- (1) This section applies for the purposes of section 449 (charge on occurrence of chargeable event).
- (2) Unless excluded by subsection (4), any of the events mentioned in subsection (3) is a “chargeable event” in relation to shares in a company if it increases the value of the shares or would do so but for the occurrence of some other event.
- (3) The events are—
- (a) the removal or variation of a restriction applying to the shares,
 - (b) the creation or variation of a right relating to the shares,
 - (c) the imposition of a restriction applying to other shares in the company,
 - (d) the variation of a restriction applying to other shares in the company, and
 - (e) the removal or variation of a right relating to other shares in the company.
- (4) An event within subsection (3) is not a “chargeable event” if the restriction or right applies to all shares of the class concerned and any of the following conditions is met at the time of the event—
- (a) the company is employee-controlled because of holdings of shares of the relevant class;
 - (b) the majority of the company’s shares of the relevant class are held by outside shareholders;
 - (c) the company is a 51% subsidiary with shares of a single class.
- (5) “The relevant class” means the class of shares to which the shares belong.
- (6) References in this section—
- (a) to restrictions to which shares are subject, or
 - (b) to rights relating to shares,
- are references to such restrictions imposed or rights conferred by contract, arrangement or in any other way.

451 Amount of charge

- (1) The taxable amount for the purposes of section 449 (charge on occurrence of chargeable event) is—
- (a) the amount by which the value of the shares is increased by the chargeable event, or
 - (b) if that amount is affected by the occurrence of some other event, the amount by which that value would have been increased but for that other event.

- (2) If the interest of the employee is less than full beneficial ownership, the taxable amount is an appropriate proportion of the amount mentioned in subsection (1)(a) or (b).

452 Cases outside charge under section 449

- (1) Section 449 (charge on occurrence of chargeable event) does not apply in the following cases.
- (2) Section 449 does not apply if, by virtue of section 427 (charge on interest ceasing to be only conditional, etc.), an amount counts as employment income of the employee in respect of the chargeable event.
- (3) Section 449 does not apply in relation to shares in a company if the employee has not, at any time in the period of 7 years ending with the date on which the chargeable event occurs, been a director or employee of—
- (a) the employer company;
 - (b) if different, the company whose shares they are; or
 - (c) an associated company of a company within paragraph (a) or (b).
- (4) Section 449 does not apply in relation to shares in a company which—
- (a) was a dependent subsidiary at the time of the acquisition, or
 - (b) is a dependent subsidiary immediately before the time of the chargeable event.
- (5) But in such a case section 453 (charge on increase in value of shares of dependent subsidiaries) may apply.

Tax charge on increase in value of shares of dependent subsidiaries

453 Charge on increase in value of shares of dependent subsidiary

- (1) This section applies if the shares are shares in a company—
- (a) which was a dependent subsidiary at the time of the acquisition, or
 - (b) which was not then a dependent subsidiary but becomes one before the employee ceases to have a beneficial interest in the shares,
- and (in either case) there is a chargeable increase in the value of the shares.
- (2) The taxable amount determined under section 455 counts as employment income of the employee for the relevant tax year.
- (3) The “relevant tax year” is the tax year which includes the appropriate time (within the meaning of section 454(2) or (4)) by reference to which the chargeable increase is determined under that provision.
- (4) Section 454 explains what are chargeable increases for the purposes of this section.
- (5) This section is subject to—
- section 456 (cases outside charge under this section),
 - section 495 (approved SIPs: no charge on increase in value of shares),
 - section 520 (approved SAYE option schemes: no charge in respect of post-acquisition benefits), and
 - section 525 (approved CSOP schemes: no charge in respect of post-acquisition benefits).

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

454 Chargeable increases

- (1) This section applies for the purposes of section 453 (charge on increase in value of shares of dependent subsidiary).
- (2) In a case within section 453(1)(a) (dependent subsidiary at time of the acquisition) there is a “chargeable increase” in the value of the shares if the value of the shares at the appropriate time exceeds their value at the time of the acquisition.
- (3) In subsection (2) “the appropriate time” means whichever is the earlier of—
 - (a) the end of the period of 7 years after the date of the acquisition, and
 - (b) the time when the employee ceases to have a beneficial interest in the shares.
- (4) In a case within section 453(1)(b) (company becoming dependent subsidiary after time of acquisition) there is a “chargeable increase” in the value of the shares if the value of the shares at the appropriate time exceeds their value at the time when the company becomes a dependent subsidiary.
- (5) In subsection (4) “the appropriate time” means whichever is the earlier or earliest of—
 - (a) the end of the period of 7 years after the date on which the company becomes a dependent subsidiary,
 - (b) the time when the employee ceases to have a beneficial interest in the shares, and
 - (c) if the company ceases to be a dependent subsidiary, the time when it does so.

455 Amount of charge

- (1) The taxable amount for the purposes of section 453 (charge on increase in value of shares of dependent subsidiary) is—

$$I - DA$$

where—

I is the amount of the chargeable increase in value of the shares, and

DA is the total of any deductible amounts.

This is subject to subsections (3) and (4).

- (2) For the purposes of subsection (1)—
 - (a) if the consideration for the acquisition is subsequently increased in accordance with the terms on which the acquisition was made, the amount of that increase is a “deductible amount”;
 - (b) if, before the time by reference to which the chargeable increase is determined, an event occurs in respect of the shares by virtue of which an amount counts as employment income of the employee under—
 - (i) Chapter 2 of this Part (conditional interests in shares), or
 - (ii) Chapter 3 of this Part (convertible shares),
 that amount is a “deductible amount”.
- (3) If, in accordance with the terms on which the acquisition was made, the employee subsequently ceases to have a beneficial interest in the shares as the result of a disposal made for a consideration which is less than the value of the shares or the employee’s interest in them at the time of the disposal, the amount “I” in subsection (1) is—

- (a) if the disposal is within section 454(3)(b), an amount equal to the excess of that consideration over the value of the shares or interest at the time of the acquisition, or
 - (b) if the disposal is within section 454(5)(b), an amount equal to the excess of that consideration over the value of the shares or interest at the time of the company becoming a dependent subsidiary.
- (4) If the interest of the employee is less than full beneficial ownership, the amount “I” in subsection (1) is an appropriate proportion of the amount that it would be apart from this subsection.

456 Cases outside charge under section 453

- (1) Section 453 (charge on increase in value of shares of dependent subsidiary) does not apply in the following cases.
- (2) Section 453 does not apply if—
- (a) the chargeable increase arises in relation to a disposal of the employee’s beneficial interest in the shares, and
 - (b) by virtue of section 427 (charge on interest ceasing to be only conditional, etc.), an amount counts as employment income of the employee in respect of the disposal.
- (3) Section 453 does not apply in relation to shares in a company within subsection (1) (b) of that section (company becoming a dependent subsidiary after acquisition) if the employee has not, at any time in the period of 7 years ending with the date on which the company became a dependent subsidiary, been a director or employee of—
- (a) the employer company,
 - (b) if different, the company whose shares they are, or
 - (c) an associated company of a company within paragraph (a) or (b).

Tax charge on other benefits from shares

457 Charge on other chargeable benefits from shares

- (1) This section applies if a person within subsection (2) receives a chargeable benefit by virtue of that person’s ownership of or interest in the shares.
- (2) The persons within this subsection are—
- (a) the employee;
 - (b) the person referred to as “A” in section 447(5) (shares acquired by connected person), in a case where that provision applies in relation to the shares;
 - (c) any other person, in a case where the employee is for the time being treated as continuing to have a beneficial interest in the shares by virtue of section 463 (disposals of shares to connected persons etc. ignored).
- (3) The taxable amount determined under section 459 counts as employment income of the employee for the relevant tax year.
- (4) The “relevant tax year” is the tax year in which the benefit is received.
- (5) Section 458 explains what are chargeable benefits for the purposes of this section.

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

- (6) This section—
- (a) does not apply if the benefit is otherwise chargeable to income tax, and
 - (b) is subject to section 460 (cases outside charge under this section).

458 Chargeable benefits

- (1) This section applies for the purposes of section 457 (charge on other chargeable benefits from shares).
- (2) A benefit received by a person is a “chargeable benefit” if subsection (3), (4) or (5) applies to the benefit.
- (3) This subsection applies to a benefit if, at the time when it becomes available, it is available to less than 90% of the persons who then hold shares of the same class as the shares.
- (4) This subsection applies to a benefit if, at the time when it is received—
 - (a) the company is a dependent subsidiary, and
 - (b) its shares are of a single class.
- (5) This subsection applies to a benefit if, at the time when it is received, none of the conditions in subsection (6) is met.
- (6) The conditions are—
 - (a) that the majority of the company’s shares in respect of which the benefit is received are held by outside shareholders;
 - (b) that the company is employee-controlled by virtue of holdings of shares of the same class as the shares;
 - (c) that, in a case where the company is a 51% subsidiary which is not a dependent subsidiary, the majority of its shares in respect of which the benefit is received are held otherwise than by or for the benefit of—
 - (i) directors or employees of the company,
 - (ii) a company which is an associated company of the company but is not its parent company, or
 - (iii) directors or employees of a company which is an associated company of the company.
- (7) For the purposes of this section—
 - (a) “the company”, in relation to the shares (see section 457(1)), means the company whose shares they are; and
 - (b) a company (“P”) is the “parent company” of another company (“S”) if S is a 51% subsidiary of P.

459 Amount of charge

The taxable amount for the purposes of section 457 (charge on other chargeable benefits) is the amount which the person receiving the benefit might reasonably expect to obtain from a sale in the open market.

460 Cases outside charge under section 457

Section 457 (charge on other chargeable benefits) does not apply in relation to shares in a company if the employee has not, at any time in the period of 7 years ending with the date on which the benefit is received, been a director or employee of—

- (a) the employer company,
- (b) if different, the company whose shares they are, or
- (c) an associated company of a company within paragraph (a) or (b).

Supplementary provisions

461 Related acquisitions of additional shares

- (1) This section applies if, by virtue of holding the shares (“the original shares”) or the interest in them, the employee acquires—
 - (a) additional shares (“the additional shares”), or
 - (b) an interest in additional shares,whether for consideration or not.
- (2) The additional shares are, or the interest in them is, to be treated—
 - (a) for the purposes of this Chapter, as acquired by the employee as a director or employee of the employer company, and
 - (b) for the purposes only of sections 449 to 456 (charge on occurrence of chargeable event or increase in value of shares of dependent subsidiaries), as so acquired at the same time as the original shares or the interest in them.
- (3) For the purposes of sections 453 to 456 (charge on increase in value of shares of dependent subsidiaries)—
 - (a) the additional shares and the original shares are to be treated as one holding of shares,
 - (b) the value of the shares comprised in that holding at any time, and of interests in them, is to be determined accordingly (the value of the original shares at the time of the acquisition being attributed proportionately to all the shares in the holding), and
 - (c) any consideration given for the acquisition of the additional shares, or the interest in them, is to be treated as an increase in the consideration for the original acquisition for the purposes of section 455(2)(a) (amounts that may be deducted in calculating the amount of the tax charge).

462 Company reorganisations etc.

- (1) This section applies if—
 - (a) on a person ceasing to have a beneficial interest in shares, that person acquires other shares or an interest in other shares, and
 - (b) the circumstances are such that the shares in which the person ceases to have a beneficial interest constitute “original shares” and the other shares constitute a “new holding” for the purposes of sections 127 to 130 of TCGA 1992 (reorganisations).

- (2) Section 127 of TCGA 1992 (under which disposals on reorganisations are disregarded and new holdings are treated as acquired as the original shares were) applies for the purposes of this Chapter.
- (3) Any consideration which—
 - (a) the person gives or becomes liable to give for the new holding, and
 - (b) is not excluded by virtue of section 128(2) of TCGA 1992 from being consideration for the purposes of section 128(1) of that Act,
 is to be treated for the purposes of this Chapter as an increase in the consideration for the original acquisition for the purposes of section 455(2)(a) above (amounts that may be deducted in calculating the amount of the tax charge).
- (4) If any consideration of the kind mentioned in section 128(3) of TCGA 1992 is received for the disposal of the original shares—
 - (a) it is to be apportioned among the shares comprising the new holding, and
 - (b) the amount which, apart from this subsection, would at a subsequent time be the value of any of those shares is to be treated as being increased by the amount of the consideration apportioned to them.

463 Disposals of shares to connected persons etc. ignored

- (1) The employee is to be treated as continuing to have a beneficial interest in the shares for the purposes of this Chapter until there is a qualifying disposal of the shares or (as the case may be) of the interest in them.
- (2) A disposal is a “qualifying disposal” if—
 - (a) it is a disposal by a bargain at arm’s length with a person who is not connected with the person making the disposal (whether that is the employee or some other person), or
 - (b) it is a disposal, in accordance with the terms on which the acquisition was made, to the company whose shares they are.

464 Application to interests in shares

Where this Chapter applies to an interest in shares, an increase or reduction of the interest is to be treated as the acquisition or disposal of a separate interest proportionate to the increase or reduction.

465 Duty to notify acquisitions of shares or interests in shares

- (1) This section applies where a person acquires shares or an interest in shares as mentioned in section 447(1).
- (2) The cases where it applies accordingly include the case where an employee is treated as acquiring shares, or an interest in them, by virtue of section 461 or 462.
- (3) Each of the following—
 - (a) the employer company, and
 - (b) if different, the company whose shares they are,
 must provide the Inland Revenue with particulars in writing of the acquisition.

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

- (4) The particulars must be provided before 7th July in the tax year following that in which the acquisition is made.
- (5) However, no particulars of any acquisition need be provided by a company under this section if the company has already given particulars of it under—
 - section 432 (conditional interest in shares), or
 - section 486 (shares allotted or transferred on exercise of share option).

466 Duty to notify chargeable events and chargeable benefits

- (1) This section applies where—
 - (a) a chargeable event (within the meaning given by section 450) occurs in relation to shares in a company, or
 - (b) a person receives a chargeable benefit (within the meaning given by section 458) in respect of shares, or an interest in shares, in a company.
- (2) Each of the following—
 - (a) the employer company, and
 - (b) if different, the company whose shares they are,must provide the Inland Revenue with particulars in writing of the chargeable event or chargeable benefit and of the shares concerned.
- (3) The particulars must be provided within 92 days after the date on which the event occurs or the benefit is received.

Interpretation

467 Meaning of “dependent subsidiary”

- (1) For the purposes of this Chapter a company which is a 51% subsidiary is a “dependent subsidiary” throughout a period of account of the company unless all of the following conditions are met—
 - (a) the conditions relating to the company in subsections (2) and (3),
 - (b) the condition relating to a directors' certificate in subsection (4), and
 - (c) the condition relating to an auditors' report in subsection (5).
- (2) The first condition relating to the company is that the whole or substantially the whole of the company's business during the period of account (taken as a whole) is carried on with persons who are not members of the same group as the company.
- (3) The second condition relating to the company is that during that period either—
 - (a) there is no increase in the value of the company as a result of intra-group transactions, or
 - (b) any such increase in value does not exceed 5% of the value of the company at the beginning of the period (or a proportionately greater or smaller percentage in the case of a period which is longer or shorter than a year).
- (4) The condition relating to a directors' certificate is that the directors of the principal company of the group give to the Inland Revenue, not later than 2 years after the end of the period of account, a certificate that in their opinion the conditions in subsections (2) and (3) are satisfied in relation to that period.

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

- (5) The condition relating to an auditors' report is that there is attached to that certificate a report addressed to those directors by the auditors of the subsidiary and stating that the auditors—
- (a) have enquired into the state of affairs of the company with particular reference to the conditions in subsections (2) and (3), and
 - (b) are not aware of anything to indicate that the opinion expressed by the directors in their certificate is unreasonable in all the circumstances.
- (6) For the purposes of subsection (2) business carried on with a 51% subsidiary of the company is to be treated as carried on with a person who is not a member of the same group as the company.
- (7) But subsection (6) does not apply if the whole or substantially the whole of the business of that or any other 51% subsidiary of the company during the period of account (taken as a whole) is carried on with members of the group other than the company and its 51% subsidiaries.
- (8) In this section—
- “group” means a principal company and all its 51% subsidiaries,
 - “intra-group transactions” means transactions between companies which are members of the same group on terms which are not such as might be expected to be agreed between persons acting at arm’s length (other than any payment for group relief within the meaning given in section 402(6) of ICTA),
 - “period of account”, in relation to a company, means the period for which it makes up its accounts, and
 - “principal company” means a company of which another company is a 51% subsidiary and which is not itself a 51% subsidiary of another company.

468 Meaning of “employee-controlled”

For the purposes of this Chapter a company is “employee—controlled” by virtue of shares of a class if—

- (a) the majority of the company’s shares of that class (other than any held by or for the benefit of an associated company) are held by or for the benefit of employees or directors of the company or a company controlled by the company, and
- (b) those directors and employees are together able as holders of the shares to control the company.

469 Shares “held by outside shareholders”

For the purposes of this Chapter a company’s shares are “held by outside shareholders” if the shares are held otherwise than by or for the benefit of—

- (a) directors or employees of the company,
- (b) an associated company of the company, or
- (c) directors or employees of any such associated company.

470 Minor definitions

- (1) In this Chapter—

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

“associated company” has the same meaning as, by virtue of section 416 of ICTA, it has for the purposes of Part 11 of ICTA;

“director”, except in sections 452(3), 456, 460 and 468 (cases excluded from charges and definition of “employee-controlled”), includes a person who is to be or has been a director;

“employee”, except in those provisions, includes a person who is to be or has been an employee;

“interest in shares” includes an interest in the proceeds of sale of part of the shares, but not a right to acquire shares;

“shares” includes stock and any securities as defined in section 254(1) of ICTA;

“value”, in relation to shares, means the amount which the person holding the shares might reasonably expect to obtain from a sale in the open market.

(2) In this Chapter—

“the acquisition”,

“the employee”,

“the employer company”, and

“the shares”,

have the meaning indicated in section 447(1) to (3).

CHAPTER 5

SHARE OPTIONS

Introduction

471 Share options to which this Chapter applies

(1) This Chapter applies to a share option granted by reason of a person’s office or employment as a director or employee of a company.

(2) The person may be a director or employee of the company whose shares are the subject of the share option, or of another company.

(3) The share option may be granted to the director or employee or to another person.

(4) In this Chapter, a “share option” means a right to acquire shares in a company and (unless the context indicates a different meaning)—

“the employee”, in relation to a share option, means the person mentioned in subsection (1); and

“the share option” means the right to acquire shares mentioned there;

and “director” and “employee” have the extended meaning given by section 487(1).

472 Introduction to taxation of share options

(1) The starting-point is that liability to tax may arise by virtue of Chapter 1 of Part 3 (earnings) or Chapter 10 of that Part (taxable benefits: residual liability to charge) when the share option is received, but not when it is exercised.

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

- (2) But section 474 (no charge in respect of receipt of shorter-term option) contains an exemption from this liability.
- (3) Liability to tax may arise when the share option is exercised by virtue of—
 - (a) Chapter 8 of Part 3 (taxable benefits: notional loans in respect of acquisitions of shares), or
 - (b) section 476 or 477 (charge on exercise etc. of option).
- (4) Liability to tax may also arise when the share option is assigned or released by virtue of section 476 or 477.
- (5) There are special rules relating to share options received under—
 - (a) approved SAYE option schemes (see Chapter 7 of this Part),
 - (b) approved CSOP schemes (see Chapter 8 of this Part), or
 - (c) enterprise management incentives (see Chapter 9 of this Part).

473 Share options to which this Chapter does not apply

- (1) This Chapter (apart from sections 472 and 485) does not apply to a share option granted by reason of a person's office or employment if the earnings from the office or employment were not (or would not have been if there had been any) general earnings to which section 15 or 21 applies (earnings for year when employee resident and ordinarily resident in the UK).
- (2) This Chapter (apart from sections 472 and 485) does not apply to a share option so granted after the person has ceased to hold the office or employment, if it would not apply in the event of the option being granted in the last tax year in which the office or employment was held.

Receipt of share option

474 No charge in respect of receipt of shorter-term option

- (1) Subsection (2) applies if the share option cannot be exercised after the tenth anniversary of the date on which it was obtained.
- (2) No liability to income tax arises in respect of the receipt of the share option, except as provided by section 526 (approved CSOP scheme: charge where option granted at a discount).

475 Value of longer-term option for purposes of liability to tax in respect of receipt

- (1) This section applies if the share option can be exercised after the tenth anniversary of the date on which it was obtained.
- (2) For the purposes of any liability to tax by virtue of Chapter 1 of Part 3 (earnings) in respect of the receipt of the share option, the value of the option is taken to be—

$$MV - C$$

where—

MV is the higher of—

- (a) the market value at the time the share option is obtained of the shares that are the subject of the share option, and
- (b) the market value at that time of any shares for which those shares may be exchanged, and

C is—

- (a) the amount or value of the consideration for which the shares that are the subject of the share option may be acquired, or
- (b) if that consideration is variable, the least amount or value of the consideration for which they may be acquired.

- (3) In this section “market value” has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act.

Tax charge on exercise, assignment or release of share option

476 Charge on exercise, assignment or release of option by employee

- (1) This section applies if the employee realises a gain by exercising, assigning or releasing the share option.
- (2) The taxable amount determined under section 478 counts as employment income of the employee for the relevant tax year.
- (3) The “relevant tax year” is the tax year in which the option is exercised, assigned or released.
- (4) Subsection (2) is subject to—
 - section 519 (approved SAYE option schemes: no charge in respect of exercise of option),
 - section 524 (approved CSOP schemes: no charge in respect of exercise of option), and
 - section 530 (enterprise management incentives: no charge on exercise of option to acquire shares at market value).

477 Charge on employee where option exercised, assigned or released by another person

- (1) This section applies if a person other than the employee realises a gain by exercising, assigning or releasing the share option and any of the following is the case—
 - (a) the option was granted to that other person, or
 - (b) the other person acquired the share option otherwise than by or under an assignment made by way of a bargain at arm’s length, or
 - (c) the employee and the other person are connected persons at the time when the gain is realised.
- (2) The taxable amount determined under section 478 counts as employment income of the employee for the relevant tax year.
- (3) The “relevant tax year” is the tax year in which the option is exercised, assigned or released.

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- (4) This section does not apply if the share option is exercised, assigned or released after the death of the person to whom it was granted by—
 - (a) that person’s personal representatives, or
 - (b) the person on whom the option devolved under a testamentary disposition or on an intestacy or partial intestacy, whether beneficially or as trustee.
- (5) This section does not apply by virtue of subsection (1)(b) or (c) if the employee was divested of the share option by operation of law.
- (6) In that case the person who realises the gain is chargeable to tax under Case VI of Schedule D on an amount equal to the amount of the gain in a case within subsection (1)(b) or (c) (see section 479 or 480).

478 Amount of charges

- (1) The taxable amount for the purposes of sections 476 and 477 (charges on exercise, assignment or release of option) is—

$$AG - DA$$

where—

AG is the amount of the gain (see section 479 or 480), and
 DA is the total of any deductible amounts.

- (2) For the purposes of subsection (1) each of the following is a “deductible amount”—
 - (a) subject to subsection (3), any amount that constitutes earnings from the employee’s employment under Chapter 1 of Part 3 (earnings) in respect of the receipt of the share option,
 - (b) subject to subsection (3), any amount that is treated as earnings from the employee’s employment under Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the receipt of the share option, and
 - (c) any amount that is a deductible amount by virtue of section 481 or 482 (deductible amounts in respect of secondary Class 1 contributions or special contribution met by the employee).
- (3) If—
 - (a) the taxable amount is being determined for the purposes of section 477, and
 - (b) section 476 or that section has already applied to the share option by virtue of an earlier event,
 so much of the amounts in subsection (2)(a) or (b) as was deducted in calculating the taxable amount on that occasion is not a deductible amount.

479 Amount of gain realised by exercising option

- (1) The amount of the gain realised by exercising the share option is—

$$MV - DC$$

where—

MV is the amount that a person might reasonably expect to obtain from a sale of the shares acquired in the open market at the time the option is exercised, and
 DC is the total of any deductible costs.

- (2) For the purposes of subsection (1) each of the following is a “deductible cost”—
- (a) subject to subsection (3), the amount or value of any consideration given for the grant of the share option;
 - (b) the amount or value of any consideration given for the shares acquired;
 - (c) in a case within section 477(1)(b) or (c), the amount of any gain realised by a previous holder on an assignment of the option; and
 - (d) if an amount counts as employment income of the employee under section 526 (approved CSOP schemes: charge where option granted at a discount) in respect of the share option, so much of that amount as is attributable to the shares in question.
- (3) If section 476 or 477 has already applied to the share option by virtue of an earlier event, so much of the consideration given for the grant of the share option as was deducted in calculating the amount of the gain on that occasion is not a deductible cost.
- (4) The amount of the gain is calculated in accordance with section 531 (enterprise management incentives: limitation of charge on exercise of option to acquire shares below market value) or 532 (enterprise management incentives: modified tax consequences following disqualifying events) if—
- (a) it is being calculated for the purposes of section 476 (charge on exercise etc. of option by employee), and
 - (b) section 531 or 532, as the case may be, applies.

480 Amount of gain realised by assigning or releasing option

- (1) The amount of the gain realised by assigning or releasing the share option is—

$$C - DC$$

where—

C is the amount or value of the consideration for the assignment or release, and
DC is the total of any deductible costs.

- (2) For the purposes of subsection (1) each of the following is a “deductible cost”—
- (a) subject to subsection (3), the amount or value of any consideration given for the grant of the share option;
 - (b) in a case within section 477(1)(b) or (c), the amount of any gain realised by a previous holder on an assignment of the share option; and
 - (c) if an amount counts as employment income of the employee under section 526 (approved CSOP schemes: charge where option granted at a discount) in respect of the share option, so much of that amount as is attributable to the shares in question.
- (3) If section 476 or 477 has already applied to the share option by virtue of an earlier event, so much of the consideration given for the grant of the share option as was deducted in calculating the amount of the gain on that occasion is not a deductible cost.

481 Deductible amount in respect of secondary Class 1 contributions met by employee

- (1) The amount calculated under subsection (2) is a deductible amount for the purposes of section 478(1) if—

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- (a) an agreement having effect under paragraph 3A of Schedule 1 to the Contributions and Benefits Act has been entered into allowing the secondary contributor to recover from the employee the whole or part of any secondary Class 1 contributions in respect of the gain, or
 - (b) an election having effect under paragraph 3B of Schedule 1 to that Act is in force which has the effect of transferring to the employee the whole or part of the liability to pay secondary Class 1 contributions in respect of the gain.
- (2) The amount is the sum of—
- (a) any amount that under the agreement referred to in subsection (1)(a) is recovered in respect of the gain by the secondary contributor before 5th June in the tax year following that in which the exercise, assignment or release of the share option occurred, and
 - (b) the amount of any liability in respect of the gain that, by virtue of the election referred to in subsection (1)(b), has become the employee's liability.
- (3) If notice of withdrawal of approval of the election is given, the amount of any liability in respect of the gain for the purposes of subsection (2)(b) is limited to the amount of the liability met before 5th June in the tax year following that in which the exercise, assignment or release of the share option occurred.
- (4) Subsection (1) does not apply in respect of a liability to pay Class 1 contributions which is prevented from arising by virtue of section 2(1)(a) of the Social Security Contributions (Share Options) Act 2001 (c. 20) (liability to pay Class 1 contributions in respect of gain replaced by liability to pay special contribution).
- (5) In this section—
- “approval”, in relation to an election, means approval by the Board of Inland Revenue under paragraph 3B of Schedule 1 to the Contributions and Benefits Act; and
 - “secondary contributor” has the same meaning as in that Act (see section 7).

482 Deductible amount in respect of special contribution met by employee

- (1) The amount of the liability referred to in subsection (4) is a deductible amount for the purposes of section 478(1), if conditions A to D are met.
- (2) Condition A is that a notice in respect of the share option was given to the Board of Inland Revenue in accordance with section 1 of the Social Security Contributions (Share Options) Act 2001 (c. 20) before 11th August 2001.
- (3) Condition B is that the person or one of the persons who gave that notice is a person who (apart from that Act) was liable, or would have become liable, by virtue of an election under paragraph 3B(1) of Schedule 1 to the Contributions and Benefits Act, to pay secondary Class 1 contributions in respect of a gain arising on the exercise, assignment or release of the share option.
- (4) Condition C is that that person became liable to pay a special contribution under section 2 of the Social Security Contributions (Share Options) Act 2001 in respect of the share option.
- (5) Condition D is that that person met that liability before 11th August 2001 or before the end of such further period as the Board of Inland Revenue directed under section 2(5) of that Act.

Supplementary provisions

483 Extended meaning of “assign” and “release”

- (1) For the purposes of this Chapter, a person who receives a benefit in money or money's worth in consideration for, or otherwise in connection with—
 - (a) failing or undertaking not to exercise a share option, or
 - (b) granting or undertaking to grant to another person a right to acquire shares which are subject to a share option or any interest in them,is to be treated as realising a gain by assigning or releasing the share option for a consideration equal to the amount or value of the benefit.
- (2) References in this Chapter to the release of a share option include agreeing to the restriction of the exercise of the option.

484 Amount or value of consideration given for grant of share option

- (1) This section applies for the purposes of sections 479 and 480 (amount of gain) in determining the amount or value of any consideration given for the grant of the share option.
- (2) If any consideration is given partly in respect of the grant and partly in respect of something else, the amount given in respect of the different things is to be determined on a just and reasonable apportionment.
- (3) The consideration given wholly or partly for the grant does not include the performance of any duties of, or in connection with, the office or employment by reason of which the share option was granted.

485 Application of this Chapter where share option exchanged for another

- (1) This section applies if—
 - (a) a share option (“the old option”) is assigned or released, and
 - (b) the whole or part of the consideration for the assignment or release consists of or includes another share option (“the new option”).
- (2) For the purposes of section 480 (amount of gain realised by assigning or releasing option) the new option is not to be treated as consideration for the assignment or release of the old option.
- (3) This Chapter applies to the new option as it applies to the old option.
- (4) For the purposes of sections 479 and 480 (amount of gain) the amount or value of the consideration for the grant of the new option is to be treated as being the sum of—
 - (a) the amount by which the amount or value of the consideration given for the grant of the old option exceeds the amount or value of any consideration for the assignment or release of the old option, apart from the new option, and
 - (b) any valuable consideration given for the grant of the new option, apart from the old option.
- (5) Two or more transactions are to be treated for the purposes of subsection (1) as a single transaction by which one share option is assigned for a consideration which consists of or includes another share option if—

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- (a) the transactions result in—
 - (i) a person ceasing to hold a share option, and
 - (ii) that person or a connected person coming to hold another share option, and
 - (b) one or more of the transactions is effected under arrangements to which two or more persons holding share options, in respect of which there may be liability to tax under this Chapter, are parties.
- (6) Subsection (5) applies regardless of the order in which the assignment and the acquisition occur.

486 Duty to notify matters relating to share options

- (1) Subsection (2) applies if in a tax year a company—
- (a) grants a share option,
 - (b) allots or transfers shares on the exercise of a share option,
 - (c) receives notice of the assignment of a share option, or
 - (d) provides a benefit in money or money's worth—
 - (i) for the assignment of a share option,
 - (ii) for the release in whole or in part of a share option,
 - (iii) for or in connection with a failure, or undertaking not, to exercise a share option, or
 - (iv) for or in connection with the grant of, or an undertaking to grant, a right to acquire shares or an interest in shares to which a share option relates.
- (2) The company must provide the Inland Revenue with particulars in writing of the matter.
- (3) The particulars must be provided before 7th July in the tax year following that in which the matter occurred.
- (4) The particulars of any matter must include particulars of any secondary Class 1 contributions payable in connection with the matter which are—
- (a) recovered as mentioned in section 481(2)(a) (agreement for secondary contributor to recover secondary Class 1 contributions in respect of gain from the employee), or
 - (b) met as mentioned in section 481(3) (liability for secondary Class 1 contributions in respect of gain transferred to the employee).
- (5) A company need not deliver particulars under subsection (1) if it has already given them in a notice under paragraph 44 of Schedule 5 (enterprise management incentives: notice of option to be given to Inland Revenue).

In other respects the obligations imposed by subsection (1) and by that paragraph are independent of each other.

487 Minor definitions

- (1) In this Chapter—
- “company” means a body corporate;
 - “director”—

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- (a) in the case of a company whose affairs are managed by a board of directors or similar body, means a member of that board or similar body,
 - (b) in the case of a company whose affairs are managed by a single director or similar person, means that director or person,
 - (c) in the case of a company whose affairs are managed by its members, means a member,
- and includes a person who is to be or has been a director;
- “employee” includes—
- (a) in relation to a company, a person taking part in the management of the affairs of the company who is not a director, and
 - (b) a person who is to be or has been an employee;
- “secondary Class 1 contributions” has the same meaning as in the Contributions and Benefits Act (see section 1);
- “shares” includes—
- (a) stock, and
 - (b) any securities as defined in section 254(1) of ICTA issued by a company;
- “the Contributions and Benefits Act” means SSCBA 1992 or SSCB(NI)A 1992.

- (2) In this Chapter—
- “share option”,
 - “the employee”, and
 - “the share option”,
- have the meaning indicated in section 471(4).

CHAPTER 6

APPROVED SHARE INCENTIVE PLANS

Introduction

488 Approved share incentive plans (SIPs)

- (1) This Chapter provides—
- (a) for the approval of share incentive plans (“SIPs”) by the Inland Revenue,
 - (b) for exemptions from income tax in connection with shares obtained under those plans,
 - (c) for amounts to count as employment income in certain circumstances in connection with such plans, and
 - (d) for the making of PAYE deductions in connection with such amounts.
- (2) Schedule 2 contains the requirements that have to be met for a SIP to be approved, together with—
- (a) the approval procedure, and
 - (b) provisions relating to the administration and operation of a SIP.
- (3) The provisions of—
- (a) this and the following sections of this Chapter,

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- (b) Schedule 2, and
 - (c) the provisions mentioned in section 515 (tax advantages and charges under other Acts),
- together constitute “the SIP code”.
- (4) In the SIP code—
- “approved” means approved by the Inland Revenue under Schedule 2, and “approval” has a corresponding meaning;
 - “PAYE deduction” means a deduction required by PAYE regulations;
 - a “share incentive plan” (or “SIP” for short) means a plan established by a company providing—
 - (a) for shares to be appropriated to employees without payment (“free shares”), or
 - (b) for shares to be acquired on behalf of employees out of sums deducted from their salary (“partnership shares”).
- (5) Other expressions used in the SIP code and contained in the index at the end of Schedule 2 have the meaning indicated by the index.

Scope of tax advantages

489 Operation of tax advantages in connection with approved SIP

- (1) Sections 490 to 499 apply for income tax purposes in connection with shares awarded under an approved SIP.
- (2) But those sections do not apply to an individual if, at the time of the award of shares in question, the earnings from the eligible employment are not (or would not be if there were any) general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 apply.
- (3) “The eligible employment” means the employment which results in the individual meeting the employment requirement in relation to the plan.

Tax advantages connected with award of shares

490 No charge on award or acquisition of shares: general

- (1) This section applies—
 - (a) on the award to an employee of free, matching or partnership shares under the plan, or
 - (b) on the acquisition on behalf of an employee of dividend shares under the plan.
- (2) The employee is not liable to income tax on the value of the beneficial interest in the shares that passes to the employee at the time of the award or acquisition.

491 No charge on award of shares as taxable benefit

An employee is not liable to income tax by virtue of Chapter 8 of Part 3 (taxable benefits: notional loans in respect of acquisitions of shares) in respect of an award of shares to the employee under the plan.

492 No charge on partnership share money deducted from salary

- (1) An employee is not liable to income tax under Part 2 on any amount of the employee's salary which is deducted as partnership share money under a partnership share agreement.
- (2) But the deduction of partnership share money is to be disregarded for the purpose of ascertaining—
 - (a) the amount of the employee's remuneration for the purposes of Chapter 1 of Part 14 of ICTA (retirement benefit schemes), or
 - (b) the amount of the employee's relevant earnings for the purposes of Chapter 3 or 4 of that Part of that Act (retirement annuities or personal pension schemes).

493 No charge on acquisition of dividend shares

- (1) A participant is not liable to income tax on the amount applied by the trustees in acquiring dividend shares on behalf of the participant.
- (2) The participant has no entitlement to a tax credit in respect of the amount so applied.
- (3) Section 234A(4) of ICTA (information relating to distributions to be provided by nominee) does not apply to any amount applied by the trustees in acquiring dividend shares on behalf of a participant.
- (4) Subsections (1) and (2) do not affect—
 - (a) any charge under section 68B(2) or 251C(1) of ICTA (charge under Case V of Schedule D or Schedule F on dividend shares ceasing to be subject to plan), or
 - (b) any entitlement to a tax credit in respect of the amount so charged.
- (5) Subsection (3) is subject to paragraph 80(4)(c) of Schedule 2 (information required where dividend shares cease to be subject to plan).

Tax advantages connected with holding of shares

494 No charge on removal of restrictions applying to shares

- (1) Subsection (2) applies where a participant's plan shares are subject to a provision for forfeiture in accordance with paragraph 32(1) of Schedule 2 (permitted restrictions: provision for forfeiture).
- (2) The participant is not liable to income tax by virtue of—
 - (a) section 427 (charge on interest in shares ceasing to be only conditional or on disposal), or
 - (b) section 449 (charge on removal of restriction applying to shares),when the provision for forfeiture is varied or removed.
- (3) A participant is also not liable to income tax by virtue of section 449 if the event which, under section 450, is a chargeable event for the purposes of that section is the ending of the holding period in relation to free, matching or dividend shares held by the participant.

495 No charge on increase in value of shares of dependent subsidiary

- (1) A participant is not liable to income tax by virtue of section 453 (charge on increase in value of shares of dependent subsidiary) in respect of any of the participant's shares that are subject to the plan at or immediately before the appropriate time.
- (2) "The appropriate time" means the time by reference to which a chargeable increase is determined for the purposes of that section (see section 454(3) or (5)).

496 No charge on cash dividend retained for reinvestment

- (1) A participant is not liable to income tax in respect of an amount retained under paragraph 68(2) of Schedule 2 (amount of cash dividend not reinvested).
- (2) The participant has no entitlement to a tax credit in respect of an amount so retained.
- (3) This section does not affect any charge under—
 - (a) section 68B(1) or 251B(1) of ICTA (charge under Case V of Schedule D or Schedule F where cash dividend retained and then later paid out), or
 - (b) section 68B(2) or 251C(1) of ICTA (charge under Case V of Schedule D or Schedule F on dividend shares ceasing to be subject to plan),
 or affect any tax credit in respect of an amount so charged.

Tax advantages connected with shares ceasing to be subject to plan

497 Limitations on charges on shares ceasing to be subject to plan

- (1) No liability to income tax arises on free or matching shares ceasing to be subject to the plan, except as provided by—
 - (a) section 505 (charge on free or matching shares ceasing to be subject to plan), or
 - (b) section 507 (charge on disposal of beneficial interest during holding period).
- (2) No liability to income tax arises on partnership shares ceasing to be subject to the plan, except as provided by section 506 (charge on partnership shares ceasing to be subject to plan).
- (3) No liability to income tax arises on dividend shares ceasing to be subject to the plan, except as provided by section 68B(2) or 251C(1) of ICTA (charge under Case V of Schedule D or Schedule F on dividend shares ceasing to be subject to plan).

498 No charge on shares ceasing to be subject to plan in certain circumstances

- (1) A participant is not liable to income tax on shares ceasing to be subject to the plan if—
 - (a) they cease to be so subject on the participant ceasing to be in relevant employment, and
 - (b) subsection (2) applies.
- (2) This subsection applies if the participant ceases to be in relevant employment—
 - (a) because of injury or disability,
 - (b) on being dismissed by reason of redundancy,

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- (c) by reason of a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794) apply,
- (d) if the relevant employment is employment by an associated company (see paragraph 95(2) of Schedule 2), by reason of a change of control or other circumstances ending that company's status as an associated company,
- (e) by reason of the participant's retirement on or after reaching the specified retirement age (see paragraph 98 of Schedule 2), or
- (f) on the participant's death.

Tax advantages: supplementary

499 No charge in respect of incidental expenditure

An employee is not liable to income tax in respect of incidental expenditure of—

- (a) the trustees,
 - (b) the company which established the plan, or
 - (c) (if different) the employer,
- in operating the plan.

Scope of tax charges

500 Operation of tax charges in connection with approved SIP

- (1) Sections 501 to 508 apply for income tax purposes in connection with shares awarded under an approved SIP.
- (2) But those sections do not apply to an individual if, at the time of the award of shares in question, the earnings from the eligible employment are not (or would not be if there were any) general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 apply.
- (3) “The eligible employment” means the employment which results in the individual meeting the employment requirement in relation to the plan.

Charges connected with holding of shares

501 Charge on capital receipts in respect of plan shares

- (1) This section applies if conditions A and B are met.
- (2) Condition A is that a capital receipt is received by a participant in respect of, or by reference to, any of the participant's plan shares.
- (3) Condition B is that the plan shares in respect of, or by reference to, which the capital receipt is received are—
 - (a) free, matching or partnership shares that were awarded to the participant less than 5 years before the participant received the capital receipt, or
 - (b) dividend shares that were acquired on behalf of the participant less than 3 years before the participant received the capital receipt.

- (4) If this section applies, the amount or value of the capital receipt counts as employment income of the participant for the relevant tax year.
- (5) The “relevant tax year” is the tax year in which the participant receives the capital receipt.
- (6) This section does not apply if the capital receipt is received by the participant’s personal representatives after the death of the participant.
- (7) Section 502 explains what is meant by a “capital receipt”.

502 Meaning of “capital receipt” in section 501

- (1) This section applies for determining whether any money or money’s worth is a “capital receipt” for the purposes of section 501.
- (2) The general rule is that any money or money’s worth is a “capital receipt” for the purposes of section 501.
- (3) The general rule is subject to the following exceptions.
- (4) Money or money’s worth is not a capital receipt for the purposes of section 501 to the extent that—
 - (a) it constitutes income in the hands of the recipient for the purposes of income tax or would do so but for sections 489 to 498 (SIPs: tax advantages),
 - (b) it consists of the proceeds of disposal of the plan shares mentioned in section 501, or
 - (c) it consists of new shares within the meaning of paragraph 87 of Schedule 2 (company reconstructions).
- (5) If, as a result of a direction given by or on behalf of the participant for the purposes of paragraph 77 of Schedule 2 (power of trustees to raise funds to subscribe for rights issues), the trustees—
 - (a) dispose of some of the rights under a rights issue, and
 - (b) use the proceeds of that disposal to exercise other such rights,
 the money or money’s worth constituting the proceeds of that disposal is not a capital receipt for the purposes of section 501.

503 Charge on partnership share money paid over to employee

- (1) Any amount paid over to an individual under any of the provisions of Schedule 2 mentioned in subsection (2) counts as employment income of the individual for the relevant tax year.
- (2) The provisions are—
 - paragraph 46(5) (deductions in excess of permitted maximum amount),
 - paragraph 50(5)(b) or paragraph 52(6)(b) (surplus partnership share money remaining after acquisition of shares),
 - paragraph 52(7) (partnership share money paid over on individual ceasing to be in relevant employment),
 - paragraph 52(8) (partnership share money paid over where accumulation period brought to an end by event specified in plan),

paragraph 55(3) (partnership share money paid over on withdrawal from partnership share agreement), or

paragraph 56 (partnership share money paid over on withdrawal of plan approval or termination of plan).

(3) The “relevant tax year” is the tax year in which the amount is paid over.

504 Charge on cancellation payments in respect of partnership share agreement

(1) This section applies if an individual who has entered into a partnership share agreement receives any money or money’s worth in respect of the cancellation of the agreement.

(2) The amount of the money or the value of the money’s worth counts as employment income of the individual for the relevant tax year.

(3) The “relevant tax year” is the tax year in which the individual receives the money or money’s worth.

Charges connected with shares ceasing to be subject to plan

505 Charge on free or matching shares ceasing to be subject to plan

(1) When free or matching shares cease to be subject to the plan, there may be an amount that counts as employment income of the participant depending on the period that has elapsed between—

(a) the date when the shares were awarded to the participant (“the award date”), and

(b) the date when they cease to be subject to the plan (“the exit date”).

(2) If the period is less than 3 years, the market value of the shares at the exit date counts as employment income of the participant for the relevant tax year (see subsection (5)).

(3) If the period is 3 years or more but less than 5 years, whichever is the lesser of—

(a) the market value of the shares at the award date, and

(b) the market value of the shares at the exit date,

counts as employment income of the participant for the relevant tax year (see subsection (5)).

(4) Where—

(a) subsection (3) applies, and

(b) the applicable amount is the market value of the shares at the award date,

the tax due is reduced by the amount or aggregate amount of any tax paid by virtue of section 501 (charge on capital receipts in respect of plan shares) on any capital receipts in respect of the shares.

(5) The “relevant tax year” is the tax year in which the exit date falls.

(6) No liability to tax arises by virtue of this section—

(a) on the forfeiture of free or matching shares,

(b) if section 498 (no charge on shares ceasing to be subject to plan in certain circumstances) applies, or

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- (c) if section 507 (charge on disposal of beneficial interest in holding period) applies.

506 Charge on partnership shares ceasing to be subject to plan

- (1) When partnership shares cease to be subject to the plan, there may be an amount that counts as employment income of the participant depending on the period that has elapsed between—
 - (a) the acquisition date in respect of those shares (as defined by paragraph 50(4) or, as the case may be, paragraph 52(5) of Schedule 2), and
 - (b) the date when they cease to be subject to the plan (“the exit date”).
- (2) If the period is less than 3 years, the market value of the shares at the exit date counts as employment income of the participant for the relevant tax year (see subsection (5)).
- (3) If the period is 3 years or more but less than 5 years, whichever is the lesser of—
 - (a) the amount of partnership share money used to acquire the shares, and
 - (b) the market value of the shares at the exit date,
 counts as employment income of the participant for the relevant tax year (see subsection (5)).
- (4) Where—
 - (a) subsection (3) applies, and
 - (b) the applicable amount is the amount of partnership share money used to acquire the shares,
 the tax due is reduced by the amount or aggregate amount of any tax paid by virtue of section 501 (charge on capital receipts in respect of plan shares) on any capital receipts in respect of the shares.
- (5) The “relevant tax year” is the tax year in which the exit date falls.
- (6) No liability to income tax arises by virtue of this section if section 498 (no charge on shares ceasing to be subject to plan in certain circumstances) applies.

507 Charge on disposal of beneficial interest during holding period

- (1) This section applies if—
 - (a) free or matching shares cease to be subject to the plan at any time during the holding period for those shares, and
 - (b) this occurs as a result of the participant assigning, charging or otherwise disposing of the participant’s beneficial interest in the shares in breach of obligations under paragraph 36(1)(b) of Schedule 2 (restrictions relating to disposals within holding period).
- (2) The market value of the shares at the date when they cease to be subject to the plan counts as employment income of the participant for the relevant tax year.
- (3) The “relevant tax year” is the tax year in which that date falls.

508 Identification of shares ceasing to be subject to plan

- (1) For the purpose of determining any liability to tax arising by virtue of the SIP code in respect of any of a participant’s shares ceasing to be subject to the plan—

- (a) shares are to be taken as ceasing to be subject to the plan in the order in which they were awarded to the participant under the plan, and
 - (b) where shares are awarded to the participant on the same day, the shares are to be treated as ceasing to be subject to the plan in the order which gives rise to the lowest charge to income tax on the participant.
- (2) For the purposes of subsection (1) dividend shares are “awarded” to a participant when the trustees acquire them on behalf of, or appropriate them to, the participant.

PAYE

509 Modification of section 696 where charge on shares ceasing to be subject to plan

- (1) Where—
- (a) as a result of shares ceasing to be subject to an approved SIP, there is an amount that counts as employment income of a participant by virtue of the SIP code, and
 - (b) the shares are readily convertible assets,
- section 696 (readily convertible assets) applies as follows.
- (2) Section 696 applies as if the participant (“P”) were being provided with PAYE income in the form of those shares—
- (a) at the time when the shares cease to be subject to the plan, and
 - (b) in respect of the relevant employment in which P is employed at that time (or, if P is not then employed in relevant employment, the relevant employment in which P was last employed before that time).
- (3) In addition, subsection (2) of section 696 applies as if the reference in that subsection to the amount of income likely to be PAYE income in respect of the provision of the asset were a reference to the amount which is likely to count as employment income by virtue of the SIP code as a result of the shares ceasing to be subject to the plan.
- (4) In this section “readily convertible asset” has the same meaning as in section 696 (see sections 701 and 702), but this is subject to subsection (5).
- (5) In determining for the purposes of this section (and of section 696 in its application in accordance with this section) whether the shares are readily convertible assets, any market for the shares which—
- (a) is created by virtue of the trustees acquiring shares for the purposes of the plan, and
 - (b) exists solely for the purposes of the plan,
- is to be disregarded.

510 Payments by trustees to employer company on shares ceasing to be subject to plan

- (1) This section applies if, as a result of any shares (“the relevant shares”) ceasing to be subject to an approved SIP—
- (a) there is an amount that counts as employment income of a participant by virtue of the SIP code, and
 - (b) an obligation to make a PAYE deduction arises in respect of that amount.

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- (2) The trustees must pay to the employer company a sum which is sufficient to enable the employer company to discharge that obligation.
- (3) Subsection (2) is subject to—
 - (a) subsection (4), and
 - (b) section 511 (PAYE deductions to be made by trustees on shares ceasing to be subject to plan).
- (4) Subsection (2) only applies if, or to the extent that, the plan does not require the participant to pay the employer company a sum which is sufficient to discharge the obligation mentioned in subsection (1)(b).
- (5) Section 710(1) (notional payments: accounting for tax) has effect as if it required the deduction of income tax to be made from any sum or sums received by the employer company—
 - (a) from the trustees under subsection (2), or
 - (b) from the participant in accordance with a requirement of the plan, as mentioned in subsection (4).
- (6) After making the necessary PAYE deduction from the sum or sums received as mentioned in subsection (5), the employer company must pay any remaining amount to the participant.
- (7) In this section “the employer company” means—
 - (a) the company which employs the participant in relevant employment at the time when the relevant shares cease to be subject to the plan, or
 - (b) if the participant is not then employed in relevant employment, the company which last employed the participant in relevant employment before that time, so long as that company is one to which PAYE regulations apply at that time.

511 PAYE deductions to be made by trustees on shares ceasing to be subject to plan

- (1) This section applies if, as a result of any shares ceasing to be subject to an approved SIP—
 - (a) there is an amount that counts as employment income of a participant by virtue of the SIP code, and
 - (b) condition A or B is met.
- (2) Condition A is that the Inland Revenue—
 - (a) are of the opinion that it is impracticable for the employer company (within the meaning of section 510) to make a PAYE deduction, and
 - (b) accordingly direct that this section is to apply.
- (3) Condition B is that there is no company that qualifies as the employer company (within the meaning of that section).
- (4) If this section applies—
 - (a) section 510(2) does not apply, and
 - (b) the trustees must make a PAYE deduction in respect of the taxable equivalent as if the participant were a former employee of the trustees.
- (5) The “taxable equivalent” means an amount equal to that mentioned in subsection (1).

- (6) If this section applies, section 689 (employee of non-UK employer) does not apply.

512 Disposal of beneficial interest by participant

- (1) This section applies if—
- (a) a participant (“P”) disposes of P’s beneficial interest in any of P’s plan shares to the trustees, and
 - (b) the trustees are, as a result of paragraph 6 of Schedule 7D to TCGA 1992 (deemed disposal by trustees on disposal of beneficial interest), treated as having disposed of the shares in question.
- (2) If this section applies, sections 510 and 511 apply as if the consideration payable by the trustees to the participant on the disposal had been received by the trustees as the proceeds of disposal of plan shares.

513 Capital receipts: payments by trustees to employer company

- (1) This section applies if the trustees receive a sum of money which constitutes (or forms part of) a capital receipt which, by virtue of the SIP code, counts as employment income of a participant when it is received by the participant.
- (2) Out of that sum of money the trustees must pay to the employer company an amount equal to the amount of employment income.
- (3) The employer company must then pay over that amount to the participant, but when doing so must make a PAYE deduction.
- (4) This section is subject to section 514 (capital receipts: deductions to be made by trustees).
- (5) In this section “the employer company” means—
- (a) the company which employs the participant in relevant employment at the time when the trustees receive the sum mentioned in subsection (1), or
 - (b) if the participant is not then employed in relevant employment, the company which last employed the participant in relevant employment before that time, so long as that company is one to which PAYE regulations apply at that time.

514 Capital receipts: PAYE deductions to be made by trustees

- (1) This section applies if—
- (a) the trustees receive a sum of money which constitutes (or forms part of) a capital receipt which, by virtue of the SIP code, counts as employment income of a participant when it is received by the participant, and
 - (b) either condition A or B is met.
- (2) Condition A is that the Inland Revenue—
- (a) are of the opinion that it is impracticable for the employer company (within the meaning of section 513) to make a PAYE deduction, and
 - (b) accordingly direct that this section is to apply.
- (3) Condition B is that there is no company that qualifies as the employer company (within the meaning of that section).

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- (4) If this section applies, the trustees must, when paying the capital receipt over to the participant, make a PAYE deduction in respect of the taxable equivalent as if the participant were a former employee of the trustees.
- (5) The “taxable equivalent” means an amount equal to the amount which counts as employment income as mentioned in subsection (1)(a).
- (6) If this section applies, section 689 (employee of non-UK employer) does not apply.

Other tax consequences

515 Tax advantages and charges under other Acts

- (1) The following provisions of ICTA relate to SIPs—
 - (a) sections 68A to 68C and 251A to 251D (which provide for amounts to be charged to income tax under Schedule D Case V or Schedule F where—
 - (i) dividends are paid out to participants under an approved SIP, or
 - (ii) dividend shares cease to be subject to the plan in certain circumstances),
 - (b) sections 686B and 686C (which provide for section 686 of that Act (accumulation and discretionary trusts: special rates of tax) not to apply to income of the trustees of an approved SIP in certain circumstances), and
 - (c) Schedule 4AA (which makes provision about deductions allowed in calculating trade profits for corporation tax purposes in respect of certain of a company’s expenses relating to—
 - (i) providing shares for the purposes of an approved SIP, or
 - (ii) the establishment or operation of the plan).
- (2) SIPs are also dealt with in—
 - (a) Part 1 of Schedule 7D to TCGA 1992 (which provides for relief from capital gains tax for the trustees and for participants in relation to an approved SIP in certain circumstances, including where shares cease to be subject to the plan), and
 - (b) section 95 of FA 2001 (which contains relief from stamp duty and stamp duty reserve tax for transfers of partnership or dividend shares).
- (3) The references in this section to ICTA, TCGA 1992 and FA 2001 are to those Acts as amended by Schedule 6 to this Act.

CHAPTER 7

APPROVED SAYE OPTION SCHEMES

Introduction

516 Approved SAYE option schemes

- (1) This Chapter provides—
 - (a) for the approval of SAYE option schemes by the Inland Revenue, and

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- (b) for exemptions from income tax in connection with share options granted under those schemes.
- (2) Schedule 3 contains the requirements that have to be met for an SAYE option scheme to be approved, together with the approval procedure.
- (3) The provisions of—
 - (a) this and the following sections of this Chapter,
 - (b) Schedule 3, and
 - (c) Part 2 of Schedule 7D to TCGA 1992 (approved SAYE option schemes: amount of consideration on exercise of option),together constitute “the SAYE code”.
- (4) In the SAYE code—
 - “approved” means approved by the Inland Revenue under Schedule 3 (see paragraph 1 of the Schedule);
 - “SAYE option scheme” means a scheme (commonly referred to as an SAYE share option scheme) which is established by a company and provides—
 - (a) for share options to be granted to employees and directors, and
 - (b) for the shares acquired by the exercise of the share options to be paid for in the way mentioned in paragraph 24 of Schedule 3 (payments for shares to be linked to approved savings schemes);
 - “share option” means a right to acquire shares in a company;
 - “shares” includes stock.
- (5) Other expressions used in the SAYE code and contained in the index at the end of Schedule 3 have the meaning indicated by the index.

517 Share options to which this Chapter applies

- (1) This Chapter applies to a share option granted to an individual—
 - (a) in accordance with the provisions of an approved SAYE option scheme, and
 - (b) by reason of the individual’s office or employment as a director or employee of a company.
- (2) The individual may be a director or employee of the company whose shares are the subject of the share option, or of some other company.

Tax advantages

518 No charge in respect of receipt of option

No liability to income tax arises in respect of the receipt of the share option.

519 No charge in respect of exercise of option

- (1) No liability to income tax arises in respect of the exercise of the share option if—
 - (a) the individual exercises it in accordance with the provisions of the SAYE option scheme at a time when the scheme is approved, and
 - (b) condition A or B is met.

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- (2) Condition A is that the option is exercised on or after the third anniversary of the date on which it was granted.
- (3) Condition B is that the option—
 - (a) is exercised before the third anniversary of the date on which it was granted, and
 - (b) is so exercised otherwise than by virtue of a provision included in the scheme under—
 - paragraph 34(5) of Schedule 3 (exercise of option where scheme-related employment ends), or
 - paragraph 37 of that Schedule (exercise of option where certain company events occur).
- (4) This section does not affect the operation of section 477(4) (no charge on exercise of option by personal representatives etc.).
- (5) In Schedule 3—
 - (a) paragraph 32 provides for the exercise of an option where the holder has died, and
 - (b) paragraph 42(3) provides for an SAYE option scheme to be treated as approved at the time when an option is exercised even though approval of the scheme has been previously withdrawn.

520 No charge in respect of post-acquisition benefits

- (1) This section applies if—
 - (a) the individual exercises the share option in accordance with the provisions of the SAYE option scheme at a time when the scheme is approved, and
 - (b) condition A or B (as set out in section 519(2) or (3)) is met.
- (2) No liability to income tax arises by virtue of—
 - section 449 (charge where restrictions or rights varied after acquisition), or
 - section 453 (charge on increase in value of shares of dependent subsidiaries),
 in respect of shares acquired by the exercise of the share option.
- (3) Paragraph 42(3) of Schedule 3 provides for an SAYE option scheme to be treated as approved at the time when an option is exercised even though approval of the scheme has been previously withdrawn.

CHAPTER 8

APPROVED CSOP SCHEMES

Introduction

521 Approved CSOP schemes

- (1) This Chapter provides—
 - (a) for the approval of CSOP schemes by the Inland Revenue,

- (b) for exemptions from income tax in connection with share options granted under those schemes, and
 - (c) for amounts to count as employment income in certain circumstances in connection with such options.
- (2) Schedule 4 contains the requirements that have to be met for a CSOP scheme to be approved, together with the approval procedure.
- (3) The provisions of—
 - (a) this and the following sections of this Chapter,
 - (b) Schedule 4, and
 - (c) Part 3 of Schedule 7D to TCGA 1992 (approved CSOP schemes: amount of consideration on exercise of option),together constitute “the CSOP code”.
- (4) In the CSOP code—
 - “approved” means approved by the Inland Revenue under Schedule 4 (see paragraph 1 of the Schedule);
 - “CSOP scheme” means a scheme (commonly referred to as a company share option plan) which—
 - (a) is established by a company,
 - (b) provides for share options to be granted to employees and directors, and
 - (c) is not an SAYE option scheme (within the meaning of the SAYE code: see section 516(4));
 - “share option” means a right to acquire shares in a company;
 - “shares” includes stock.
- (5) Other expressions used in the CSOP code and contained in the index at the end of Schedule 4 have the meaning indicated by the index.

522 Share options to which this Chapter applies

- (1) This Chapter applies to a share option granted to an individual—
 - (a) in accordance with the provisions of an approved CSOP scheme, and
 - (b) by reason of the individual’s office or employment as a director or employee of a company.
- (2) The individual may be a director or employee of the company whose shares are the subject of the share option, or of some other company.

Tax advantages

523 No charge in respect of receipt of option

- (1) No liability to income tax arises in respect of the receipt of the share option.
- (2) But this is subject to section 526 (charge where option granted at a discount).

524 No charge in respect of receipt of option

- (1) No liability to income tax arises in respect of the exercise of the share option if—

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- (a) the individual exercises it in accordance with the provisions of the CSOP scheme at a time when the scheme is approved, and
 - (b) the condition in subsection (2) is met.
- (2) The condition is that—
 - (a) the option (“the current option”) is exercised—
 - (i) on or after the third anniversary of the date on which it was granted, but
 - (ii) not later than the tenth anniversary of that date, and
 - (b) the individual has not made an exempt exercise of another option within the period of 3 years ending with the date on which the current option is exercised.
- (3) For the purposes of subsection (2)—
 - (a) an individual has made an exempt exercise of another option if the individual has exercised a share option granted under the scheme, or under any other approved CSOP scheme, in circumstances in which subsection (1) applied to its exercise, and
 - (b) an option exercised on the same day as the current option is to be disregarded.
- (4) This section does not affect the operation of section 477(4) (no charge on exercise of option by personal representatives etc.).
- (5) Paragraph 25 of Schedule 4 provides for the exercise of an option where the holder has died.

525 No charge in respect of post-acquisition benefits

- (1) This section applies if—
 - (a) the individual exercises the share option in accordance with the provisions of the CSOP scheme at a time when the scheme is approved, and
 - (b) the condition set out in section 524(2) is met.
- (2) No liability to income tax arises by virtue of—
 - section 449 (charge where restrictions or rights varied after acquisition), or
 - section 453 (charge on increase in value of shares of dependent subsidiaries),
 in respect of shares acquired by the exercise of the option.

Tax charge

526 Charge where option granted at a discount

- (1) This section applies if, at the time when the share option is granted to the individual, the aggregate of—
 - (a) the amount or value of any consideration given by the individual for the grant of the option, and
 - (b) the amount payable by the individual, on exercising the option, in order to acquire the maximum number of shares that may be acquired under it,
 is less than the market value of the same quantity of issued shares of the same class.
- (2) The amount of the difference counts as employment income of the individual for the relevant tax year.

- (3) The “relevant tax year” is the tax year in which the option is granted to the individual.
- (4) The following provisions, namely—
- (a) section 194 (amount of notional loan in respect of acquisition of shares for less than market value), and
 - (b) sections 479 and 480 (amount of gain realised by exercising, assigning or releasing option),
- provide for deductions to be made to take account of amounts that count as employment income under this section.

CHAPTER 9

ENTERPRISE MANAGEMENT INCENTIVES

Introduction

527 Enterprise management incentives: qualifying options

- (1) This Chapter provides—
- (a) for share options notified to the Inland Revenue to be qualifying options for the purposes of the EMI code, and
 - (b) for exemptions and reliefs from income tax in connection with qualifying options.
- (2) Schedule 5 contains the requirements that have to be met for a share option to be a qualifying option, together with the notification procedure.
- (3) The provisions of—
- (a) this and the following sections of this Chapter,
 - (b) Schedule 5, and
 - (c) Part 4 of Schedule 7D to TCGA 1992 (enterprise management incentives: capital gains tax consequences of exercise of qualifying option),
- together constitute “the EMI code”.
- (4) In the EMI code—
- “qualifying option” means a share option—
 - (a) in relation to which the requirements of Schedule 5 are met at the time when the option is granted, and
 - (b) which is notified to the Inland Revenue in accordance with Part 7 of that Schedule;
 - “replacement option” means an option within paragraph 41(4) of that Schedule (grant of replacement option in connection with company reorganisations);
 - “share option” means a right to acquire shares in a company;
- and any reference to the requirements of Schedule 5 is to the requirements set out in paragraph 1(3) of that Schedule.
- (5) Other expressions used in the EMI code and contained in the index at the end of Schedule 5 have the meaning indicated by the index.

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Tax advantages: receipt of option

528 No charge on receipt of qualifying option

No liability to income tax arises in respect of the receipt of a qualifying option.

Tax advantages: exercise of option

529 Scope of tax advantages: option must be exercised within 10 years

- (1) Sections 530 to 540 apply in connection with the exercise of a qualifying option.
- (2) But those sections only apply in cases where the option is exercised on or before the tenth anniversary of—
 - (a) the date of the grant of the option, or
 - (b) if it is a replacement option, the date of the grant of the original option.
- (3) In the EMI code “the original option” means—
 - (a) where there has been one replacement option, the option that that option replaced, or
 - (b) where there have been two or more replacement options, the option that the first of them replaced.

530 No charge on exercise of option to acquire shares at market value

- (1) This section applies if the option is to acquire shares at not less than their market value—
 - (a) at the time when the option is granted, or
 - (b) if it is a replacement option, at the time when the original option was granted.
- (2) If this section applies, no liability to income tax arises by virtue of section 476 (charge on exercise etc. of option by employee) in respect of the exercise of the option.
- (3) This section has effect subject to section 532 (modified tax consequences following disqualifying events).

531 Limitation of charge on exercise of option to acquire shares below market value

- (1) This section applies if the option is to acquire shares at less than their market value—
 - (a) at the time when the option is granted, or
 - (b) if it is a replacement option, at the time when the original option was granted, or at nil cost.
- (2) If this section applies, the section 476 gain is—

$$CMV - (ACO + ACS)$$

where—

CMV is the chargeable market value,
 ACO is the amount or value of the consideration given for the grant of the option,
 and
 ACS is the amount, if any, for which the shares are acquired.

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- (3) “The chargeable market value” means—
- (a) the market value of the shares—
 - (i) at the time when the option was granted, or
 - (ii) if it is a replacement option, at the time when the original option was granted, or
 - (b) the market value of the shares at the time when the option is exercised, whichever is lower.
- (4) In this section “the section 476 gain” means the amount which is to be regarded for the purposes of section 476 (charge on exercise etc. of option by employee) as the amount of the gain realised by exercising the option.
- (5) This section has effect subject to section 532 (modified tax consequences following disqualifying events).

Tax advantages where disqualifying events

532 Modified tax consequences following disqualifying events

- (1) This section applies where—
- (a) a disqualifying event (see section 533) occurs in relation to a qualifying option before the option is exercised, and
 - (b) the option is exercised later than 40 days after the day on which the event occurred.
- (2) If the option is within section 530(1) (option to acquire shares at market value), the section 476 gain is—
- $$\text{PEG} - \text{ACO}$$
- (see subsection (4)).
- (3) If the option is within section 531(1) (option to acquire shares at less than market value), the section 476 gain is—
- $$(\text{CMV} + \text{PEG}) - (\text{ACO} + \text{ACS})$$
- (see subsection (4)).
- (4) For the purposes of subsections (2) and (3)—
- ACO is the amount or value of the consideration given for the grant of the option,
ACS is the amount, if any, for which the shares are acquired,
CMV is the chargeable market value (as defined by section 531(3)), and
PEG is the post-event gain, that is the amount (if any) by which the market value of the shares at the time when the option is exercised exceeds their market value immediately before the disqualifying event.
- (5) In those subsections “the section 476 gain” means the amount which is to be regarded for the purposes of section 476 (charge on exercise etc. of option by employee) as the amount of the gain realised by exercising the option.
- (6) Nothing in the following provisions—
- (a) subsections (2) and (3) above, or

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(b) sections 530 and 531,
 applies if the amount that counts as employment income by virtue of section 476 in respect of the exercise of the option would, in the absence of those provisions, be less than the amount that counts as such income as a result of those provisions.

533 Disqualifying events

- (1) The following provisions deal with the events that are (or are to be treated as) disqualifying events in relation to a qualifying option—
 - (a) section 534 (events relating to the relevant company),
 - (b) section 535 (events relating to the employee), and
 - (c) section 536 (other disqualifying events), read with sections 537 to 539 (which contain supplementary provisions).
- (2) In the provisions mentioned in subsection (1) “the employee” means the person holding the qualifying option and “the relevant company” means the company whose shares are the subject of the option (see paragraph 1(3) of Schedule 5).

534 Disqualifying events relating to relevant company

- (1) The following events relating to the relevant company are disqualifying events in relation to a qualifying option—
 - (a) when the relevant company becomes a 51% subsidiary of another company;
 - (b) when the relevant company comes under the control of—
 - (i) another company, or
 - (ii) another company and any other person connected with that other company,
 without becoming a 51% subsidiary of that other company;
 - (c) when the relevant company ceases to meet the trading activities requirement (see paragraphs 13 to 23 of Schedule 5).
- (2) But where a replacement option has been granted, an event within subsection (1)(a) or (b) is not a disqualifying event in relation to the old option (see paragraph 41(2) of Schedule 5) if the event occurs at any time during the period—
 - (a) beginning at the same time as the period within which the replacement option had to be granted (see paragraph 42 of Schedule 5), and
 - (b) ending with the release of the rights under the old option.
- (3) A disqualifying event is to be treated as occurring in relation to a qualifying option if the circumstances mentioned in subsection (4) arise.
- (4) The circumstances are that—
 - (a) the relevant company was a qualifying company at the time when the option was granted as a result only of preparations to carry on a qualifying trade; and
 - (b) either—
 - (i) the preparations cease to be carried on, or
 - (ii) the initial period comes to an end,
 without the relevant company (or, if it is a parent company, any member of the group) beginning to carry on that qualifying trade.

- (5) “The initial period” means the period of two years after the date when the option was granted.
- (6) Paragraph 41(5)(b) of Schedule 5 has the effect that a replacement option is to be treated as granted on the date when the original option was granted.

535 Disqualifying events relating to employee

- (1) The following events relating to the employee are disqualifying events in relation to a qualifying option—
 - (a) when the employee ceases to be an eligible employee in relation to the relevant company as a result of ceasing to meet the requirement in paragraph 25 of Schedule 5 (the employment requirement);
 - (b) when the employee ceases to be such an employee as a result of ceasing to meet the requirement in paragraph 26 of that Schedule (the requirement as to commitment of working time).
- (2) In addition, a disqualifying event is to be treated as occurring in relation to a qualifying option at the end of any tax year if, during that year, the average amount per week of the employee’s reckonable time in relevant employment was less than the statutory threshold.
- (3) An employee’s “reckonable time in relevant employment” means the time which the employee in fact spent, as an employee in relevant employment—
 - (a) on the business of the relevant company, or
 - (b) if that company is a parent company, on the business of the group,together with any time which the employee would, as such an employee, have spent on that business but for any of the reasons set out in paragraph 26(3)(a) to (d) of Schedule 5 (requirement as to commitment of working time).
- (4) The “statutory threshold” means—
 - (a) 25 hours, or
 - (b) if less, 75% of the employee’s working time.
- (5) For the purpose of applying subsection (2) to the tax year in which the option was granted, any part of that year which preceded the date on which it was granted is to be disregarded in calculating the average amount mentioned in that subsection.
- (6) In this section—
 - (a) “relevant employment” means employment—
 - (i) by the relevant company, or
 - (ii) if that company is a parent company, by any member of the group;
 - (b) “working time” has the meaning given by paragraph 27 of Schedule 5 (meaning of “working time”).

536 Other disqualifying events

- (1) The following are also disqualifying events in relation to a qualifying option—
 - (a) any variation of the terms of the option whose effect is either—
 - (i) to increase the market value of the shares that are the subject of the option, or

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- (ii) that the requirements of Schedule 5 would no longer be met in relation to the option;
 - (b) any alteration to the share capital of the relevant company—
 - (i) to which subsection (2) (share values affected by alteration of rights or restrictions) of section 537 applies, and
 - (ii) whose effect is that the requirements of Schedule 5 would no longer be met in relation to the option;
 - (c) any alteration to the share capital of the relevant company to which—
 - (i) subsection (2) (share values affected by alteration of rights or restrictions), and
 - (ii) subsection (3) (alteration designed to increase share values),
 of section 537 apply;
 - (d) a conversion of any of the shares to which the option relates into shares of a different class, except in a case within section 538(2); and
 - (e) the grant to the employee of a relevant CSOP option, if immediately after it is granted the employee holds unexercised employee options in respect of shares with a total value of more than £100,000.
- (2) In subsection (1)(e)—
- “relevant CSOP option”, and
 - “employee option”,
- have the meaning given by section 539 (CSOP and other options relevant for purposes of this section); and sub-paragraphs (6) to (8) of paragraph 5 of Schedule 5 (determination of value of shares) apply for the purposes of subsection (1)(e) as they apply for the purposes of paragraph 5.

537 Alterations of share capital for purposes of section 536

- (1) This section has effect for the purposes of section 536(1)(b) and (c) (other disqualifying events: alterations of share capital of relevant company).
- (2) This subsection applies to an alteration of the share capital of the relevant company if—
 - (a) the alteration affects (or but for the occurrence of some other event would affect) the value of the shares to which the option relates; and
 - (b) it consists of or includes—
 - (i) the creation, variation or removal of a right relating to any shares in the relevant company,
 - (ii) the imposition of a restriction relating to any such shares, or
 - (iii) the variation or removal of a restriction to which any such shares are subject.
- (3) This subsection applies to an alteration of the share capital of the relevant company if the effect of the alteration is to increase the market value of the shares to which the option relates and either—
 - (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 it is to increase the market value of those shares.
- (4) In this section any reference to—

- (a) a restriction relating to shares or to which shares are subject, or
 - (b) a right relating to shares,
- is a reference to such a restriction imposed or right conferred by any contract or arrangement or in any other way.

538 Share conversions excluded for purposes of section 536

- (1) This section has effect for the purposes of section 536(1)(d) (other disqualifying events: share conversions).
- (2) A conversion of shares is not a disqualifying event if—
 - (a) it is a conversion of shares of one class only (“the original class”) into shares of one other class only (“the new class”);
 - (b) all the shares of the original class are converted into shares of the new class; and
 - (c) one of the conditions in subsection (3) is met.
- (3) The conditions are—
 - (a) that immediately before the conversion the majority of the relevant company’s shares of the original class are held otherwise than by or for the benefit of—
 - (i) directors or employees of the relevant company,
 - (ii) an associated company of the relevant company, or
 - (iii) directors or employees of such an associated company;
 - (b) that immediately before the conversion the relevant company is employee-controlled as a result of holdings of shares of the original class.
- (4) In this section “associated company”, “director”, “employee” and “employee-controlled” have the same meaning as in section 440 (exception from tax charge where conversion of entire class of shares).

539 CSOP and other options relevant for purposes of section 536

- (1) This section has effect for the purposes of section 536(1)(e) (other disqualifying events: grant of CSOP option).
- (2) A “relevant CSOP option” means a CSOP option granted to the employee by reason of the employee’s employment—
 - (a) with the employer company, or
 - (b) if it is a member of a group of companies, with any member of that group.
- (3) A share option is an “employee option” if it is—
 - (a) the qualifying option mentioned in section 536(1), or
 - (b) another qualifying option granted to the employee by reason of the employee’s employment as mentioned in subsection (2)(a) or (b) above, or
 - (c) a relevant CSOP option.
- (4) In this section a “CSOP option” means an option to acquire shares under a scheme approved under Schedule 4 (CSOP schemes).

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

Tax advantages: taxable benefits

540 No charge on acquisition of shares as taxable benefit

- (1) In its application in relation to a UK resident employee, Chapter 8 of Part 3 (taxable benefits: notional loans in respect of acquisitions of shares) does not apply in relation to the acquisition of shares by the exercise of a qualifying option.
- (2) An employee is a “UK resident employee” if—
 - (a) at the time when the option is granted, or
 - (b) at the time when it is exercised,
 the earnings from the employment are (or would be if there were any) general earnings to which section 15 or 21 applies (earnings for year when employee resident and ordinarily resident in the United Kingdom).

Other income tax consequences

541 Effects on other income tax charges

- (1) Nothing in the EMI code affects—
 - (a) any liability to income tax arising by virtue of section 199 (charge on disposal of employment-related shares for more than market value) in respect of shares acquired under a qualifying option;
 - (b) any liability to income tax arising by virtue of section 476 (charge on exercise etc. of option by employee) in respect of the release of rights conferred by a qualifying option;
 - (c) any liability to income tax arising by virtue of section 449, 453 or 457 (charge on post-acquisition benefits relating to shares) in respect of shares acquired under a qualifying option; or
 - (d) subject to subsection (2), any liability to income tax arising by virtue of—
 - (i) section 427 (charge on interest in shares ceasing to be only conditional), or
 - (ii) section 438 (charge on conversion of shares),
 in respect of shares acquired under a qualifying option.
- (2) If section 427 or 438 applies in respect of shares acquired under a qualifying option, the amount of relief on the exercise of the option is to be regarded as a deductible amount for the purposes of section 428(1) or 439(1) (amount of charge), as appropriate.
- (3) “The amount of relief on the exercise of the option” means the difference between—
 - (a) the amount that would have counted as employment income by virtue of section 476 in respect of the exercise of the option apart from the EMI code, and
 - (b) the amount (if any) that in fact counts as such income in accordance with the EMI code.

CHAPTER 10

PRIORITY SHARE ALLOCATIONS

Exemption where offer made to both public and employees

542 Exemption: offer made to public and employees

- (1) This section applies if—
 - (a) there is a genuine offer to the public of shares in a company at a fixed price or by tender,
 - (b) a director or employee of the company, or of another company or person, is entitled by reason of the office or employment to an allocation of the shares in priority to members of the public, and
 - (c) conditions A to C are met.
- (2) No liability to income tax in respect of earnings arises by virtue of any benefit derived by the director or employee from the entitlement.
- (3) Condition A is that the aggregate number of shares subject to the offer that may be allocated as mentioned in subsection (1)(b) (“priority shares”) does not exceed—
 - (a) if the offer is part of arrangements which include one or more other offers to the public of shares of the same class, either of the limits in subsection (4), or
 - (b) in any other case, 10% of the shares subject to the offer (including the priority shares).
- (4) The limits referred to in subsection (3)(a) are—
 - (a) 40% of the shares subject to the offer (including the priority shares), and
 - (b) 10% of all the shares of the class in question that are subject to any of the offers forming part of the arrangements (including the priority shares).
- (5) Condition B is that all the persons entitled to an allocation of priority shares are entitled to it on similar terms (see section 546).
- (6) Condition C is that those persons are not restricted wholly or mainly to directors or to those whose remuneration exceeds a particular level.
- (7) This section has effect subject to section 543 (discount not covered by exemption in this section).

543 Discount not covered by exemption in section 542

- (1) This section applies if the total of—
 - (a) the price payable by the director or employee for the shares of the company allocated to the director or employee under the offer, and
 - (b) the amount or value of any registrant discount made to the director or employee in respect of the shares,is less than the fixed price or the lowest price successfully tendered.
- (2) Section 542(2) (exemption: offer made to public and employees) does not apply to the benefit (if any) represented by the difference.

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Exemption where different offers made to public and employees

544 Exemption: different offers made to public and employees

- (1) This section applies if—
 - (a) there is a genuine offer to the public of a combination of shares in two or more companies at a fixed price or by tender (“the public offer”),
 - (b) there is at the same time an offer (“the employee offer”) of shares, or of a combination of shares, in one or more, but not all, of those companies—
 - (i) to directors or employees of any of those companies, or of any other company or person, or
 - (ii) to those directors or employees and to other persons,
 - (c) any of those directors or employees is entitled by reason of the office or employment to an allocation of shares under the employee offer in priority to any allocation to members of the public under the public offer, and
 - (d) conditions A to C are met.
- (2) No liability to income tax in respect of earnings arises by virtue of any benefit derived by the director or employee from the entitlement.
- (3) Condition A is that for each company whose shares are subject to the employee offer, the aggregate number of shares subject to that offer that may be allocated as mentioned in subsection (1)(c) (“priority shares”) does not exceed—
 - (a) if the public offer and the employee offer are part of arrangements which include one or more other offers to the public of shares in the company of the same class, either of the limits in subsection (4), or
 - (b) in any other case, 10% of the shares in the company that are subject to the public offer or the employee offer (including the priority shares).
- (4) The limits referred to in subsection (3)(a) are—
 - (a) 40% of the shares in the company that are subject to the public offer or the employee offer (including the priority shares), and
 - (b) 10% of all the shares in the company of the class in question that are subject to any of the offers forming part of the arrangements (including the priority shares).
- (5) Condition B is that all the persons entitled to an allocation of priority shares are entitled to it on similar terms (see section 546).
- (6) Condition C is that those persons are not restricted wholly or mainly to directors or to those whose remuneration exceeds a particular level.
- (7) This section has effect subject to section 545 (discount not covered by exemption in this section).

545 Discount not covered by exemption in section 544

- (1) This section applies if the total of—
 - (a) the price payable by the director or employee for the shares of a company allocated to the director or employee under the employee offer, and
 - (b) the amount or value of any registrant discount made to the director or employee in respect of the shares,

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is not the same as, or as near as reasonably practicable to, the appropriate notional price for the shares of the company.

- (2) Section 544(2) (exemption: different offers made to public and employees) does not apply to the benefit (if any) represented by the amount by which the appropriate notional price exceeds the total referred to in subsection (1).
- (3) The “appropriate notional price” for the shares of a company is—
- (a) if subsection (4) applies, the amount given by the formula in subsection (6), and
 - (b) in any other case, the notional price.
- (4) This subsection applies if shares of the company are subject to the public offer and there is a difference between CP and AFP—
- (a) CP being the price for the combination of shares subject to the public offer determined by aggregating the notional prices for each one of the shares comprised in the combination, and
 - (b) AFP being the actual fixed price or (as the case may be) the lowest successfully tendered price for that combination of shares.
- (5) The “notional price” for the shares of a company is the price that might reasonably have been expected to be the fixed price for the shares of the company under a separate offer of those shares if—
- (a) the shares of the company, and of each of the other companies had, instead of being subject to the public offer and the employee offer, been subject to separate offers to the public in respect of each company at fixed prices, and
 - (b) those separate offers had been made at the time at which the public offer was in fact made.
- (6) The formula referred to in subsection (3)(a) is—

$$NP \times \frac{AFP}{CP}$$

where—

NP is the notional price for the shares of the company, and
AFP and CP have the same meanings as in subsection (4).

Supplementary provisions

546 Meaning of being entitled “on similar terms”

- (1) This section applies for the purposes of sections 542(5) and 544(5) (condition that entitlements to allocation of priority shares must be on similar terms).
- (2) The fact that different provision is made for persons according to—
- (a) the levels of their remuneration,
 - (b) the length of their service, or
 - (c) similar factors,
- does not mean that they are not entitled to an allocation on similar terms.

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- (3) The fact that the allocations of shares in a company to which non-company employees are entitled are smaller than those to which company employees are entitled does not mean that they are not entitled on similar terms, if conditions A and B are met.
- (4) Condition A is that each non-company employee is also entitled by reason of the office or employment and in priority to members of the public, to an allocation of shares in another company or companies which are offered to the public at a fixed price or by tender at the same time as the shares in the company.
- (5) Condition B is that in the case of each non-company employee the aggregate value of all the shares included in the allocations to which the non-company employee is entitled is the same, or as nearly the same as is reasonably practicable, as that of the shares in the company included in the entitlement of a comparable company employee.
- (6) For the purposes of subsection (5), the value of shares is to be measured by reference to the fixed price or the lowest price successfully tendered.
- (7) In this section—
 - “company employee”, in relation to a company, means a director or employee of the company, and
 - “non-company employee”, in relation to a company, means a director or employee of another company or person.

547 Meaning and amount or value of “registrant discount”

- (1) For the purposes of this Chapter there is a “registrant discount” in respect of the shares of a company if conditions A to C are met.
- (2) Condition A is that members of the public who comply with such requirements as may be imposed in connection with the offer or, if section 544 applies, the public offer are, or may become, entitled to a discount in respect of the whole or part of the shares of the company allocated to them.
- (3) Condition B is that at least 40% of the shares of the company allocated to members of the public are allocated to individuals who are or become entitled to—
 - (a) the discount, or
 - (b) some other benefit of similar value for which they may elect as an alternative to the discount.
- (4) Directors and employees who are entitled by reason of their office or employment to an allocation of the shares in priority to members of the public are not to be treated as members of the public for the purposes of subsection (3).
- (5) Condition C is that subscribing employees are, or may become, entitled to the same discount in respect of the shares of the company as any other members of the public to whom shares of the company are allocated under the offer.
- (6) In subsection (5) a “subscribing employee” means a director or employee who—
 - (a) subscribes for shares—
 - (i) if section 542 (offer made to public and employees) applies, under the offer as a member of the public, or
 - (ii) if section 544 (different offers made to public and employees) applies, under the public offer as a member of the public or under the employee offer as a director or employee, and

- (b) complies (or, in the case of a requirement to register, is taken under the terms of the offer to comply) with the requirements mentioned in subsection (2).
- (7) For the purposes of this Chapter, the “amount or value” of any registrant discount made to a director or employee means—
 - (a) the amount of any such discount made to the director or employee as is mentioned in subsection (5), or
 - (b) the value of any such other benefit as is mentioned in subsection (3)(b) which is conferred on the director or employee as an alternative to the discount.

548 Minor definitions

- (1) In this Chapter—
 - “director” means—
 - (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that body,
 - (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person, and
 - (c) in relation to a company whose affairs are managed by the members themselves, a member of the company, andincludes any person in accordance with whose directions or instructions the directors of the company (as defined in paragraphs (a) to (c)) are accustomed to act and a person who is to be, or has ceased to be, a director (as so defined);
 - “employee” includes a person who is to be or has been an employee;
 - “shares” includes stock;
 - “the employee offer” and “the public offer” have the meanings given by section 544(1).
- (2) For the purposes of subsection (1) a person is not to be regarded as a person in accordance with whose directions or instructions the directors of the company are accustomed to act merely because the directors act on advice given by that person in a professional capacity.
- (3) References in this Chapter—
 - (a) to the employment, in relation to an employee, are to the employment of that employee, and
 - (b) to the office, in relation to a director, are to the office of that director.

CHAPTER 11

SUPPLEMENTARY PROVISIONS ABOUT EMPLOYEE BENEFIT TRUSTS

Introduction

549 Application of this Chapter

- (1) This Chapter applies for the purposes of any listed provision in circumstances where—
 - (a) an individual (“B”) is interested as a beneficiary of an employee benefit trust in shares or obligations of a particular company (“the company”), and

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- (b) the question arises under that provision whether the trustees of the trust are, as a result of B's being so interested, to be regarded as associates of B's for the relevant purposes.

The relevant purposes are those of the operation, in relation to the company, of the "no material interest" requirement contained in the Schedule to this Act in which the listed provision appears.

- (2) In this Chapter "listed provision" means any of the following provisions (under which trustees of an employee benefit trust are not to be regarded as associates if specified limits relating to share ownership are not exceeded)—
 - (a) paragraph 23(2) of Schedule 2 (approved SIPs),
 - (b) paragraph 15(2) of Schedule 3 (approved SAYE option schemes),
 - (c) paragraph 13(2) of Schedule 4 (approved CSOP schemes), or
 - (d) paragraph 32(2) of Schedule 5 (enterprise management incentives).
- (3) The general effect of this Chapter is that if the provisions of—
 - (a) sections 552 and 553 (attribution of interest in company to beneficiary or associate), or
 - (b) section 554 (attribution of further interest),
 apply in relation to B or an associate of B's, B or the associate is to be treated for the purposes of the listed provision as having been the beneficial owner of a particular percentage of the company's ordinary share capital on a particular date.
- (4) In this Chapter, in relation to an individual, "associate"—
 - (a) has the same meaning as in section 417(3) and (4) of ICTA (expressions relating to close companies), but
 - (b) does not include the trustees of an employee benefit trust as a result only of the individual's having (as mentioned in subsection (1)(a)) an interest in shares or obligations of the company which are subject to the trust.
- (5) In this Chapter "employee" means the holder of a taxable employment under Part 2 (as defined in section 66(3)), and accordingly includes an office-holder whose office is within the scope of that definition as a result of section 5(1).

Employee benefit trusts

550 Meaning of "employee benefit trust"

- (1) In this Chapter "employee benefit trust", in relation to a company, means a trust where conditions A and B are met.
- (2) Condition A is that all or most of the employees of the company are eligible to benefit under the trust.
- (3) Condition B is that after 13th March 1989 either—
 - (a) there has been no disposal of any of the property subject to the trust, or
 - (b) any disposal of any of that property was a disposal within subsection (4).
- (4) The disposals within this subsection are—
 - (a) disposals in the ordinary management of the trust, or
 - (b) qualifying disposals (within the meaning given by section 551).

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(5) In this section and section 551 “disposal” means disposal by sale, loan or otherwise.

551 “Qualifying disposals” for purposes of section 550

- (1) For the purposes of section 550 (meaning of “employee benefit trust”) a “qualifying disposal” is a disposal of property consisting of—
- (a) any of the ordinary share capital of the company, or
 - (b) money paid outright,
- where any of conditions 1, 2 and 3 is met.
- (2) Condition 1 is that the property has been applied for the benefit of—
- (a) individual employees or former employees of the company,
 - (b) spouses, former spouses, widows or widowers of employees or former employees of the company,
 - (c) dependants of persons within paragraph (a), or
 - (d) relatives, or spouses of relatives, of persons within paragraph (a) or (b).
- (3) In subsection (2) each reference to the company includes a reference to a company controlled by the company.
- (4) Condition 2 is that the property has been applied for charitable purposes.
- (5) Condition 3 is that the property has been transferred to—
- (a) the trustees of another employee benefit trust,
 - (b) the trustees of a qualifying employee share ownership trust (within the meaning of Schedule 5 to FA 1989), or
 - (c) the trustees of a profit sharing scheme approved under Schedule 9 to ICTA (approved share option schemes and profit sharing schemes).
- (6) In this section “relative” means—
- (a) parent, child or remoter relation in the direct line, or
 - (b) brother, sister, uncle, aunt, nephew or niece.

Attribution of interests in company

552 Attribution of interest in company to beneficiary or associate

- (1) This section applies if—
- (a) after 13th March 1989 B, or an associate of B's, has received a payment (“the relevant payment”) from the trustees of the employee benefit trust, and
 - (b) at any time during the period of 3 years ending with the day on which the relevant payment was received (“the payment date”), the property subject to the trust consisted of or included any part of the ordinary share capital of the company.
- (2) In such a case B or the associate is to be treated for the purposes of the listed provision as having been the beneficial owner of the appropriate percentage of the ordinary share capital of the company on the payment date.
- (3) This is in addition to any percentage of that share capital of which B or the associate was actually the beneficial owner on that date.

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- (4) Section 553 explains what is meant by “the appropriate percentage”.

553 Meaning of “appropriate percentage” for purposes of section 552

- (1) For the purposes of section 552 “the appropriate percentage” is—

$$\frac{P \times 100}{D}$$

where P and D have the meaning given by the following provisions.

- (2) Unless subsection (3) applies, P is the aggregate of the relevant payment and any other payments received by B or associates of B’s from the trustees of the trust during the period of 12 months ending with the payment date.

- (3) If—

- (a) any distributions were made to the trustees of the trust by the company in respect of its ordinary share capital during the period of 3 years ending with the payment date, and
- (b) the aggregate of those distributions is less than the aggregate mentioned in subsection (2),

P is the aggregate of those distributions.

- (4) Unless subsection (5) applies, D is the amount determined as follows—

Step 1

Calculate the aggregate of—

- (a) any distributions made by the company in respect of its ordinary share capital during the period of 12 months ending with the payment date,
- (b) any distributions so made during the period of 12 months immediately preceding that mentioned in paragraph (a), and
- (c) any distributions so made during the period of 12 months immediately preceding that mentioned in paragraph (b).

Step 2

Divide the aggregate so calculated by the number of the periods mentioned in paragraphs (a) to (c) in which distributions were so made.

- (5) If no distributions were so made during any of those periods, D is 1.
- (6) In this section “the payment date” and “the relevant payment” have the meaning indicated in section 552(1).

554 Attribution of further interest in company

- (1) This section applies if—

- (a) B or an associate of B’s is (apart from this section) to be treated by virtue of section 552(2) as having been the beneficial owner of a percentage of the ordinary share capital of the company as a result of receiving the relevant payment from the trustees of an employment benefit trust, and
- (b) B or an associate of B’s has, during the period of 12 months ending with the payment date, received one or more payments from the trustees of any other employee benefit trust or trusts connected with the company.

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- (2) In such a case section 552 applies to B or (as the case may be) the associate mentioned in subsection (1)(a) as if B or the associate had received—
 - (a) any payment from the trustees of a trust as mentioned in subsection (1)(b), or
 - (b) where more than one payment has been received from the trustees of a trust, the last of the payments,on the payment date.
- (3) B or the associate is accordingly to be treated for the purposes of the listed provision as having been the beneficial owner on the payment date of both—
 - (a) the percentage of the ordinary share capital of the company mentioned in subsection (1)(a), and
 - (b) the appropriate percentage of that share capital as determined in accordance with subsection (2).
- (4) This is in addition to any percentage of that share capital of which B or the associate was actually the beneficial owner on that date.
- (5) For the purposes of this section a trust is “connected with” the company if, at any time during the period of 3 years ending with the payment date, the property subject to the trust consisted of or included any part of the ordinary share capital of the company.
- (6) In this section “the payment date” and “the relevant payment” have the meaning indicated in section 552(1).