

## SCHEDULES

### SCHEDULE 16

Section 85

#### RELIEF WHERE NATIONAL INSURANCE CONTRIBUTIONS MET BY EMPLOYEE

##### *Income tax relief: restricted securities*

- 1 (1) Chapter 2 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (employment income: restricted securities) is amended as follows.
- (2) In section 426 (charge on occurrence of chargeable event), for subsections (1) to (4) substitute—
- “(1) If a chargeable event occurs in relation to the employment-related securities, the taxable amount counts as employment income of the employee for the relevant tax year.
- (2) For this purpose—
- (a) “chargeable event” has the meaning given by section 427,
- (b) “the taxable amount” is the amount determined under section 428, and
- (c) “the relevant tax year” is the tax year in which the chargeable event occurs.
- (3) Relief may be available under section 428A (relief for secondary Class 1 contributions met by employee) against an amount counting as employment income under this section.”.
- (3) After section 428 insert—

##### **“428A Relief for secondary Class 1 contributions met by employee**

- (1) Relief is available under this section against an amount counting as employment income under section 426 (“the employment income amount”) if—
- (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 contribution in respect of that amount, or
- (b) an election having effect under paragraph 3B of that Schedule 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 that amount.
- (2) The amount of the relief is the total of—
- (a) any amount that under the agreement referred to in subsection (1) (a) is recovered in respect of the employment income amount by the

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- secondary contributor before 5th June in the tax year following that in which the chargeable event occurs, and
- (b) the amount of any liability in respect of the employment income amount 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 the liability referred to in subsection (2)(b) is limited to the amount met before 5th June in the tax year following that in which the chargeable event occurs.
- (4) Relief under this section is given by way of deduction from the amount otherwise counting as employment income.
- (5) Relief under this section does not affect the amount to be taken into account—
- (a) as employment income in determining contributions payable under the Contributions and Benefits Act, or
- (b) as relevant employment income for the purposes of paragraph 3A or 3B of Schedule 1 to that Act.
- (6) In this section—
- “approval”, in relation to an election, means approval by the 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).”.

*Income tax relief: convertible securities*

- 2 (1) Chapter 3 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (employment income: convertible securities) is amended as follows.
- (2) In section 438 (charge on occurrence of chargeable event), for subsections (1) to (4) substitute—
- “(1) If a chargeable event occurs in relation to the employment-related securities, the taxable amount counts as employment income of the employee for the relevant tax year.
- (2) For this purpose—
- (a) “chargeable event” has the meaning given by section 439,
- (b) “the taxable amount” is the amount determined under section 440, and
- (c) “the relevant tax year” is the tax year in which the chargeable event occurs.
- (3) Relief may be available under section 442A (relief for secondary Class 1 contributions met by employee) against an amount counting as employment income under this section.”.
- (3) After section 442 insert—

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**“442A Relief for secondary Class 1 contributions met by employee**

- (1) Relief is available under this section against an amount counting as employment income under section 438 (“the employment income amount”) if—
  - (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 contribution in respect of that amount, or
  - (b) an election having effect under paragraph 3B of that Schedule 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 that amount.
- (2) The amount of the relief is the total of—
  - (a) any amount that under the agreement referred to in subsection (1) (a) is recovered in respect of the employment income amount by the secondary contributor before 5th June in the tax year following that in which the chargeable event occurs, and
  - (b) the amount of any liability in respect of the employment income amount 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 the liability referred to in subsection (2)(b) is limited to the amount met before 5th June in the tax year following that in which the gain is realised.
- (4) Relief under this section is given by way of deduction from the amount otherwise counting as employment income.
- (5) Relief under this section does not affect the amount to be taken into account—
  - (a) as employment income in determining contributions payable under the Contributions and Benefits Act, or
  - (b) as relevant employment income for the purposes of paragraph 3A or 3B of Schedule 1 to that Act.
- (6) In this section—

“approval”, in relation to an election, means approval by the 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).”.

*Income tax relief: securities options*

- 3 (1) Chapter 5 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (employment income: securities options) is amended as follows.
- (2) In section 476 (charge on occurrence of chargeable event), for subsections (1) to (4) substitute—

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- “(1) If a chargeable event occurs in relation to an employment-related securities option, the taxable amount counts as employment income of the employee for the relevant tax year.
- (2) For this purpose—
- (a) “chargeable event” has the meaning given by section 477,
  - (b) “the taxable amount” is the amount determined under section 478, and
  - (c) “the relevant tax year” is the tax year in which the chargeable event occurs.
- (3) Relief under section 481 or 482 (relief for secondary Class 1 contributions or special contribution met by employee) may be available against an amount counting as employment income under this section.”.
- (3) In section 480 (deductible amounts), omit subsection (7).
- (4) In section 481 (deductible amount in respect of secondary Class 1 contributions met by employee)—
- (a) in the heading for “**Deductible amount in respect of**” substitute “**Relief for**”;
  - (b) in subsection (1) for the opening words down to “if” substitute “Relief is available under this section against an amount counting as employment income under section 476 if”;
  - (c) in subsection (2) for the opening words down to “of” substitute “The amount of the relief is the total of”;
  - (d) after subsection (4) insert—
    - “(4A) Relief under this section is given by way of deduction from the amount otherwise counting as employment income.
    - (4B) Relief under this section does not affect the amount to be taken into account—
      - (a) as employment income in determining contributions payable under the Contributions and Benefits Act, or
      - (b) as relevant employment income for the purposes of paragraph 3A or 3B of Schedule 1 to that Act.”.
- (5) In section 482 (deductible amount in respect of special contribution met by employee)—
- (a) in the heading for “**Deductible amount in respect of**” substitute “**Relief for**”;
  - (b) in subsection (1) for the opening words down to “if” substitute “Relief is available under this section against an amount counting as employment income under section 476 if”;
  - (c) after subsection (5) add—
    - “(6) The amount of the relief is the amount of the liability referred to in subsection (4).
    - (7) Relief under this section is given by way of deduction from the amount otherwise counting as employment income.”.

*Consequential amendments: PAYE*

- 4 (1) Part 11 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (Pay As You Earn) is amended as follows.
- (2) In section 698 (PAYE: special charges on employment-related securities), after subsection (2) insert—
- “(2A) For the purposes of this section the amount likely to count as employment income under section 426 or 438 means the amount after deducting the amount of any relief likely to be available under section 428A or 442A (relief for secondary Class 1 contributions met by employee).”.
- (3) In section 700 (PAYE: gains from securities options), after subsection (4) insert—
- “(4A) For the purposes of this section the amount likely to count as employment income under section 476 means the amount after deducting the amount of any relief likely to be available under section 481 or 482 (relief for secondary Class 1 contributions or special contribution met by employee).”.

*Consequential amendments: corporation tax relief*

- 5 (1) Schedule 23 of the Finance Act 2003 (c. 14) (corporation tax relief for employee share acquisition) is amended as follows.
- (2) In paragraph 21(4) (amount of relief on acquisition of restricted shares)—
- (a) omit the words “increased by any amounts deducted under sections 481 and 482 of that Act”, and
- (b) at the end add—
- “No account shall be taken for this purpose of any relief under section 481 or 482 of that Act (relief for secondary Class 1 contributions or special contribution met by employee).”.
- (3) In paragraph 21(6) (amount of relief on chargeable event in relation to restricted shares), at the end add—
- “No account shall be taken for this purpose of any relief under section 428A of that Act (relief for secondary Class 1 contributions met by employee).”.
- (4) In paragraph 22C(4) (amount of relief on acquisition of convertible shares)—
- (a) omit the words “increased by any amounts deducted under sections 481 and 482 of that Act”, and
- (b) at the end add—
- “No account shall be taken for this purpose of any relief under section 481 or 482 of that Act (relief for secondary Class 1 contributions or special contribution met by employee).”.
- (5) In paragraph 22C(6) (amount of relief on chargeable event in relation to convertible shares), at the end add—
- “No account shall be taken for this purpose of any relief under section 442A of that Act (relief for secondary Class 1 contributions met by employee).”.
- (6) Nothing in this paragraph affects the operation of paragraph 21(4) or 22C(4) of Schedule 23 to the Finance Act 2003 in relation to amounts deducted under

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section 481 or 482 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) before the amendment of those paragraphs by this Schedule.

*Consequential amendments: capital gains tax*

- 6 (1) Section 119A of the Taxation of Chargeable Gains Act 1992 (c. 12) (increase in expenditure by reference to tax charged in relation to employment-related securities) is amended as follows.
- (2) For subsection (5) (determination of relevant amount) substitute—
- “(5) In determining for the purposes of subsection (4) the amount counting as employment income—
- (a) in the case of an amount counting as employment income under section 476 of ITEPA 2003 any amounts deducted under section 480(5)(a) or (b) of that Act shall be added back, and
- (b) no account shall be taken of any relief under section 428A, 442A, 481 or 482 of that Act (relief for secondary Class 1 contributions or special contribution met by employee).”.
- (3) Omit subsection (8).
- (4) Nothing in this paragraph affects the operation of section 119A(5) of the Taxation of Chargeable Gains Act 1992 (c. 12), as inserted by paragraph 50 (1) of Schedule 22 to the Finance Act 2003 (c. 14), in relation to amounts deducted under section 481 or 482 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) before the amendment of those sections by this Schedule.

*Other consequential amendments*

- 7 (1) In section 484(7) of the Income Tax (Earnings and Pensions) Act 2003 (definitions for Chapter 5 of Part 7), omit the definition of “the Contributions and Benefits Act” and the word “and” preceding it.
- (2) In section 721 (1) of that Act (general definitions), at the appropriate place insert—
- ““the Contributions and Benefits Act” means SSCBA 1992 or SSCB(NI)A 1992;”.
- (3) In Part 2 of Schedule 1 to that Act (index of defined expressions), for the entry relating to “the Contributions and Benefits Act” substitute—

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“the Contributions and Benefits Act	section 721(1)”
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