Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 9

MISCELLANEOUS PROVISIONS

Employment-related securities

92 Avoidance using options etc

(1) Section 420 of ITEPA 2003 (meaning of securities etc) is amended as follows.

(2) In subsection (1)(f), insert at the beginning "options and".

(3) In subsection (5)(e), insert at the beginning "securities".

(4) In subsection (8), in the definition of "securities option", after "acquire securities" insert "other than a right to acquire securities which is acquired pursuant to a right or opportunity made available under arrangements the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions".

(5) This section has effect in relation to options acquired on or after 2nd December 2004; but subsection (4) also has effect in relation to an option acquired before that date where something is done on or after that date as part of the arrangements under which it was made available.

93 Corporation tax relief for shares acquired under EMI option

(1) Schedule 23 to FA 2003 (corporation tax relief for employee share acquisition) is amended as follows.

(2) In paragraph 21 (amount of relief in case of restricted shares), after sub-paragraph (4) insert—

"(4A) But if the option is a qualifying option, the amount mentioned in sub-paragraph (4) is increased by (or, if that amount is nil, is taken to be) the amount equal to any difference between—

(a) the amount that would have counted as employment income of the employee under section 476 of the Income Tax (Earnings and Pensions) Act 2003 in respect of the acquisition apart from the EMI code, and

(b) the amount (if any) that in fact counts as such income in accordance with the EMI code."

(3) In paragraph 22C (amount of relief in case of convertible shares), after sub-paragraph (4) insert—

"(4ZA) But if the option is a qualifying option, the amount mentioned in sub-paragraph (4) is increased by (or, if that amount is nil, is taken to be) the amount equal to any difference between—

(a) the amount that would have counted as employment income of the employee under section 476 of the Income Tax (Earnings and Pensions) Act 2003 (as modified by section 437 of that Act) in respect of the acquisition apart from the EMI code, and

(b) the amount (if any) that in fact counts as such income in accordance with the EMI code."

(4) In paragraph 30 (minor definitions) insert at the appropriate places—

""the EMI code" has the meaning given by section 527(3) of the Income Tax (Earnings and Pensions) Act 2003;", and

""qualifying option" has the same meaning as in the EMI code (see section 527(4) of the Income Tax (Earnings and Pensions) Act 2003);".

(5) In paragraph 31 (index of defined expressions) insert at the appropriate places—

"the EMI code	paragraph 30", and
"qualifying option	paragraph 30".

(6) This section applies in relation to an acquisition of shares made on or after 1st September 2003 (and for this purpose shares are acquired when the recipient acquires a beneficial interest in the shares and not, if different, the time the shares are conveyed or transferred).