***Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 23. (See end of Document for details)*

# SCHEDULES

## SCHEDULE 23 U.K.

Section 55

EMPLOYEE SHAREHOLDER SHARES

### PART 1 U.K.

INCOME TAX TREATMENT OF EMPLOYEE SHAREHOLDER SHARES

1 ITEPA 2003 is amended in accordance with paragraphs 2 to 15.

2 In section 19(2) (time of receipt of non-money earnings), at the appropriate place insert— " section 226A (amount treated as earnings: employee shareholder shares). "

**Commencement Information**

**I1** Sch. 23 para. 2 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

3 In Chapter 12 of Part 3, after section 226 insert—

*"Shares of employee shareholders*

**226A Amount treated as earnings**

(1) This section applies if shares having a market value of no less than £2000 are acquired by an employee in consideration of an employee shareholder agreement.

(2) An amount calculated in accordance with subsection (3) is to be treated as earnings from the employment, in respect of the acquisition of the shares, for the tax year in which they are acquired.

But this is subject to subsection (4).

(3) The amount is—

$$\mathrm{MV} - P$$

where—

a MV is an amount equal to the market value of the shares;

b P is any payment the employee is treated as making for the shares under section 226B.

But if P exceeds MV, the amount is nil.

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(4) If the shares are acquired pursuant to an employment-related securities option, subsection (2) does not apply.

(5) If subsection (2) applies, nothing else constitutes earnings under this Part from the employment in respect of the acquisition of the shares.

(6) For the purposes of this section and sections 226B to 226D—

shares are "acquired" by an employee if the employee becomes beneficially entitled to them (and they are acquired at the time when the employee becomes so entitled);

"employee shareholder agreement" means an agreement by virtue of which an employee is an employee shareholder (see section 205A(1)(a) to (d) of the Employment Rights Act 1996);

"employee shareholder share" means a share acquired by an employee in consideration of an employee shareholder agreement;

"employee" and "employer company", in relation to an employee shareholder agreement, mean the individual and the company which enter into the agreement;

"employment-related securities option" has the same meaning as in Chapter 5 of Part 7 (see section 471(5));

"market value" has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act; and the market value of shares is their market value on the day on which they are acquired (but see also subsection (7)).

(7) For the purposes of subsection (1), the market value of the shares is to be determined ignoring—

(a) any election under section 431 (election for market value of restricted shares to be calculated as if not restricted), and

(b) section 437 (market value of convertible securities to be determined as if not convertible).

**226B Deemed payment for employee shareholder shares**

(1) This section applies if shares having a market value of no less than £2000 are acquired by an employee in consideration of an employee shareholder agreement.

(2) Where all the shares acquired in consideration of the agreement are acquired on the same day, the employee is to be treated, for the purposes of this Act, as having made on that day a payment of £2000 for those shares.

(3) Where—

(a) shares are acquired by the employee in consideration of the agreement on more than one day, and

(b) of those shares, shares having a market value of not less than £2000 are acquired on the first of those days,

the employee is to be treated for the purposes of this Act as having made, on the first of those days, a payment of £2000 for the shares acquired on that day.

(4) If the market value of the shares acquired by the employee on the day mentioned in subsection (2) or (3)(b) exceeds £2000, the amount of the payment under subsection (2) or (3) which the employee is to be treated as having made for each of the shares is an amount equal to the appropriate proportion of the market value of that share.

(5) The "appropriate proportion" is the following—

$$\frac{2000}{V}$$

where V is the total market value of the shares acquired by the employee on the day.

(6) This section is subject to—
  (a) section 226C (only one payment deemed to be made under agreements with associated companies), and
  (b) section 226D (no deemed payment if shareholder or a connected person has a material interest in the company).

(7) Except as provided by this section, for the purposes of this Act the employee is to be treated as having given no consideration for shares acquired in consideration of the agreement.

(8) Section 226A(7) applies for the purposes of this section as it applies for the purposes of section 226A(1).

**226C Only one payment deemed to be made under associated agreements**

(1) An employee who is treated as having made a payment under section 226B for shares acquired in consideration of an employee shareholder agreement ("the relevant agreement") is not to be treated as having made a payment for any other qualifying shares.

(2) "Qualifying shares" means employee shareholder shares in—
  (a) the employer company in relation to the relevant agreement, or
  (b) an associated company of that company,

which are acquired by the employee in consideration of an agreement within subsection (3).

(3) An agreement is within this subsection if it is—
  (a) another employee shareholder agreement with the same employer company, or
  (b) an employee shareholder agreement with an associated company of that company.

(4) For the purposes of this section—
  (a) a company is an "associated company" of another if—
    (i) one of the two has control of the other, or
    (ii) both are under the control of the same person or persons, and

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(b) if a company controls another when an employee shareholder agreement is entered into with the employee, paragraph (a) applies as if that continued to be the case (in addition to any other circumstances) when any subsequent employee shareholder agreement is entered into with that employee.

(5) But subsection (4)(b) does not apply as between two companies if—

(a) one of the companies has been dissolved,

(b) the period of two years beginning with the date of the dissolution has passed, and

(c) the employee has not, at any time in that period, been engaged in any office or employment (including engagement under a contract for services) with any company which is an associated company of the dissolved company.

(6) In this section "control" is to be read in accordance with sections 450 and 451 of CTA 2010.

**226D Shareholder or connected person having material interest in company**

(1) No payment is treated as made under section 226B in respect of any shares if, on the date on which the shares are acquired—

(a) the employee has a material interest in the employer company or a relevant parent undertaking, or

(b) the employee is connected with an individual who has a material interest in the employer company or a relevant parent undertaking.

(2) No payment is treated as made under section 226B in respect of any shares if—

(a) at any time in the period of one year ending with the date on which the shares are acquired, the employee had a material interest in the employer company or a relevant parent undertaking, or

(b) on the date on which the shares are acquired, the employee is connected with an individual who, at any time in the period of one year ending with that date, had a material interest in the employer company or a relevant parent undertaking.

(3) Subsections (4) and (5) define "material interest" for the purposes of this section.

Those subsections must be read together with subsections (6) to (8).

(4) An individual ("A") has a material interest in a company if at least 25% of the voting rights in the company are exercisable—

(a) by A,

(b) by persons connected with A, or

(c) by A and persons connected with A together.

(5) If a company is a close company, an individual ("A") has a material interest in it if—

(a) A,

(b) persons connected with A, or

(c) A and persons connected with A together,

possess such rights as would, in the event of the winding up of the company or in any other circumstances, give an entitlement to receive at least 25% of the assets that would then be available for distribution among the participators.

(6) For the purposes of subsection (1), A is to be treated as having a material interest in a company at any time if either of the following conditions is met.

(7) The first condition is that—

(a) A,

(b) persons connected with A, or

(c) A and persons connected with A together,

have an entitlement to acquire such rights as would (together with any existing rights) give A a material interest in the company.

(8) The second condition is that there are arrangements in place between—

(a) the employer company or a relevant parent undertaking, and

(b) A, or persons connected with A, or A and persons connected with A together,

which enable A or those persons to acquire such rights as would (together with any existing rights) give A a material interest in the company.

(9) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"close company" includes a company that would be a close company but for—

(a) section 442(a) of CTA 2010 (exclusion of companies not resident in the United Kingdom), or

(b) sections 446 and 447 of CTA 2010 (exclusion of certain quoted companies);

"relevant parent undertaking" means any parent undertaking of the employer company and for this purpose "parent undertaking" is to be read in accordance with section 1162 of the Companies Act 2006."

**Commencement Information**

**I2** Sch. 23 para. 3 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

4 In consequence of the amendment made by paragraph 3—

(a) in the heading to Chapter 12 of Part 3, for "PAYMENTS" substitute " OTHER AMOUNTS ", and

(b) before section 221 insert the heading "*Payments*".

**Commencement Information**

**I3** Sch. 23 para. 4 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

5 In section 428 (restricted securities: amount of charge on occurrence of chargeable event), in subsection (7), after paragraph (b) insert—

"(ba) any amount treated as earnings from the employee's employment under section 226A (employee shareholder shares: amount treated as earnings) in respect of the acquisition of the employment-related securities (other than an amount of exempt income),".

**Commencement Information**

**I4** Sch. 23 para. 5 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

6 In section 431 (election for full or partial disapplication of Chapter 2 (restricted securities)), in subsection (3), after paragraph (a) insert—

"(aa) determining any amount that is to be treated as earnings from the employment where section 226A applies (employee shareholder shares: amount treated as earnings),".

**Commencement Information**

**I5** Sch. 23 para. 6 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

7 In section 437 (convertible securities: adjustment of charge), in subsection (1)(a), after "charge)" insert " , section 226A (employee shareholder shares: amount treated as earnings) ".

**Commencement Information**

**I6** Sch. 23 para. 7 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

8 In section 446B (charge on acquisition of securities with artificially depressed market value), in subsection (4), after paragraph (b) insert—

"(ba) section 226A (employee shareholder shares: amount treated as earnings),".

**Commencement Information**

**I7** Sch. 23 para. 8 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

9 In section 446T (securities acquired for less than market value: amount of notional loan), in subsection (3), after paragraph (b) insert—

"(ba) any amount treated as earnings from the employee's employment under section 226A (employee shareholder shares: amount treated as earnings) in respect of the acquisition of the employment-related securities (other than an amount of exempt income),".

**Commencement Information**

**I8** Sch. 23 para. 9 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

10 In section 446V (Chapter 3C to be additional to other income tax charges), after paragraph (b) insert—

"(ba) section 226A (employee shareholder shares: amount treated as earnings),".

**Commencement Information**

**I9** Sch. 23 para. 10 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

11 In section 452 (shares in research institution spin-out companies: market value on acquisition), in subsection (2), after paragraph (a) insert—

"(aa) determining any amount that is to be treated as earnings from the employment under section 226A (employee shareholder shares: amount treated as earnings),".

**Commencement Information**

**I10** Sch. 23 para. 11 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

12 In section 479 (securities options: amount of gain realised on chargeable event), after subsection (3) insert—

"(3A) Sections 226B to 226D (deemed payment for acquisition of employee shareholder shares) provide for the determination of the amount of consideration, if any, which is given for employee shareholder shares (within the meaning of section 226A(6))."

**Commencement Information**

**I11** Sch. 23 para. 12 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

13 In section 531 (enterprise management incentives: limitation of charge where shares acquired below market value), after subsection (3) insert—

"(3A) Sections 226B to 226D (deemed payment for acquisition of employee shareholder shares) provide for the determination of the amount, if any, for which employee shareholder shares (within the meaning of section 226A(6)) are acquired."

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**Commencement Information**

**I12** Sch. 23 para. 13 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

14 (1) Section 532 (enterprise management incentives: consequences after disqualifying events) is amended as follows.

(2) After subsection (4) insert—

"(4A) Sections 226B to 226D (deemed payment for acquisition of employee shareholder shares) provide for the determination of the amount, if any, for which employee shareholder shares (within the meaning of section 226A(6)) are acquired."

(3) In subsection (5), for "those subsections" substitute " subsections (2) and (3) ".

**Commencement Information**

**I13** Sch. 23 para. 14 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

15 In section 554N (exclusions: other cases involving employment-related securities etc), in subsection (7)(b), after "Part 3" insert " , or an amount treated under section 226A as earnings of A, ".

**Commencement Information**

**I14** Sch. 23 para. 15 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

16 In Chapter 3 of Part 4 of ITTOIA 2005 (tax on dividends etc from UK companies), after section 385 insert—

*"Purchase by company of exempt employee shareholder shares*

**385A No charge to tax on purchase by company of exempt employee shareholder shares**

(1) No tax is charged under this Chapter on the amount or value of a payment made by a company on the purchase of shares from an individual if—

(a) the payment is made in respect of shares in the company,

(b) the shares are exempt employee shareholder shares, and

(c) at the time of the disposal, the individual is not an employee of, or an office-holder in, the employer company or an associated company of that company.

(2) In this section—

"exempt employee shareholder share", "employer company" and "associated company" have the same meaning as in sections 236B to 236D of TCGA 1992 (capital gains tax treatment of employee shareholder shares);

"in respect of shares in the company" has the same meaning as in Part 23 of CTA 2010 (company distributions) (see section 1113 of that Act)."

**Commencement Information**

**I15** Sch. 23 para. 16 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

## PART 2 U.K.

CAPITAL GAINS TAX EXEMPTION FOR EMPLOYEE SHAREHOLDER SHARES

17 TCGA 1992 is amended as follows.

18 In section 58(2) (spouses and civil partners: disposals excepted from the usual rule)—

(a) omit "or" at the end of paragraph (a), and

(b) after paragraph (b) insert ", or

(c) if the disposal is of exempt employee shareholder shares (see sections 236B to 236D),".

**Commencement Information**

**I16** Sch. 23 para. 18 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

19 (1) Section 149AA (restricted and convertible employment-related securities) is amended as follows.

(2) In subsection (1) for "Where" substitute " Subject to subsection (1A), where ".

(3) After that subsection insert—

"(1A) Where an individual has acquired an asset consisting of shares which, on acquisition, became employee shareholder shares—

(a) the consideration for the acquisition is (subject to section 119A) to be taken to be equal to any amount that constituted earnings under Chapter 1 of Part 3 of ITEPA 2003 (earnings) or section 226A of that Act (employee shareholder shares), and

(b) no other consideration is to be treated as having been given for the acquisition of the shares."

(4) In subsection (2)—

(a) for "Subsection (1) above applies" substitute " Subsections (1) and (1A) apply ", and

(b) for "is" substitute " are ".

(5) After subsection (6) insert—

"(6A) For the purposes of subsection (1A)—

"employee shareholder share" has the meaning given in section 236B(3) (exemption for employee shareholder shares), and

shares are "acquired" by an individual if the individual becomes beneficially entitled to them (and they are so acquired at the time when the individual becomes so entitled)."

(6) In subsection (7)—

(a) for "In subsection (1) the" substitute " In subsections (1) and (1A) a ", and

(b) after "ITEPA 2003" insert " or was treated as earnings under section 226A of that Act ".

(7) Accordingly, in the heading for that section, after "**securities**" insert " **and employee shareholder shares** ".

**Commencement Information**

**I17** Sch. 23 para. 19 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

20 After section 236A insert—

*"Employee shareholders*

**236B Exemption for employee shareholder shares**

(1) A gain which accrues on the first disposal of an exempt employee shareholder share is not a chargeable gain.

(2) A share is an exempt employee shareholder share if it is—

(a) an employee shareholder share, and

(b) exempt in accordance with sections 236C and 236D.

(3) In this section and sections 236C to 236G—

shares are "acquired" by an employee if the employee becomes beneficially entitled to them (and they are acquired at the time when the employee becomes so entitled);

"employee shareholder share" means a share acquired in consideration of an employee shareholder agreement and held by the employee;

"employee shareholder agreement" means an agreement by virtue of which an employee is an employee shareholder (see section 205A(1)(a) to (d) of the Employment Rights Act 1996);

"employee" and "employer company", in relation to an employee shareholder agreement, mean the individual and the company which enter into the agreement.

**236C Only first £50,000 of shares under associated agreements to be exempt**

(1) An employee shareholder share acquired in consideration of an employee shareholder agreement ("the relevant agreement") is exempt for the purposes of section 236B only if, immediately after its acquisition, the total value of qualifying shares which have been acquired by the employee does not exceed £50,000.

(2) "Qualifying share" means an employee shareholder share in—

(a) the employer company in relation to the relevant agreement, or

(b) an associated company of that company,

which is acquired by the employee in consideration of an agreement within subsection (3).

(3) An agreement is within this subsection if it is—

(a) the relevant agreement,

(b) another employee shareholder agreement with the same employer company, or

(c) an employee shareholder agreement with an associated company of that company.

(4) For the purposes of this section—

(a) a company is an "associated company" of another if—

(i) one of the two has control of the other, or

(ii) both are under the control of the same person or persons, and

(b) if a company controls another when an employee shareholder agreement is entered into with the employee, paragraph (a) applies as if that continued to be the case (in addition to any other circumstances) when any subsequent employee shareholder agreement is entered into with that employee.

(5) But subsection (4)(b) does not apply as between two companies if—

(a) one of the companies has been dissolved,

(b) the period of two years beginning with the date of the dissolution has passed, and

(c) the employee has not, at any time in that period, been engaged in any office or employment (including engagement under a contract for services) with any company which is an associated company of the dissolved company.

(6) If a number of qualifying shares are acquired by an employee on a day and—

(a) before that day, the value of qualifying shares that have been acquired by the employee does not exceed £50,000, and

(b) at the end of that day, that value does exceed that sum,

the appropriate proportion of the shares (rounded down, if necessary, to the nearest share) is to be treated for the purposes of subsection (1) as having been acquired separately and before the others.

(7) The "appropriate proportion" is the following—

$$\frac{50000 - B}{T}$$

where—

B is the value of qualifying shares acquired before the day;

T is the total value of qualifying shares acquired on the day.

**Changes to legislation:** *There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 23. (See end of Document for details)*

(8) For the purposes of this section, the value of a share (at any time) is its unrestricted market value at the time when it was acquired by the employee.

(9) The unrestricted market value of a share when it is acquired by an employee is what the market value of the share would be immediately after the acquisition, but for any restriction.

For this purpose "restriction" has the meaning given by section 432(8) of ITEPA 2003 (restricted securities for the purposes of Chapter 2 of Part 7 of that Act).

**236D Shares not exempt if shareholder or connected person has material interest in company**

(1) An employee shareholder share is not exempt for the purposes of section 236B if, on the date on which the share is acquired—
  (a) the employee has a material interest in the employer company or a relevant parent undertaking, or
  (b) the employee is connected with an individual who has a material interest in the employer company or a relevant parent undertaking.

(2) An employee shareholder share is not exempt for the purposes of section 236B if—
  (a) at any time in the period of one year ending with the date on which the share is acquired, the employee had a material interest in the employer company or a relevant parent undertaking, or
  (b) on the date on which the share is acquired, the employee is connected with an individual who, at any time in the period of one year ending with that date, had a material interest in the employer company or a relevant parent undertaking.

(3) Subsections (4) and (5) define "material interest" for the purposes of this section.

Those subsections must be read together with subsections (6) to (8).

(4) An individual ("A") has a material interest in a company if at least 25% of the voting rights in the company are exercisable—
  (a) by A,
  (b) by persons connected with A, or
  (c) by A and persons connected with A together.

(5) If a company is a close company, an individual ("A") has a material interest in it if—
  (a) A,
  (b) persons connected with A, or
  (c) A and persons connected with A together,

possess such rights as would, in the event of the winding up of the company or in any other circumstances, give an entitlement to receive at least 25% of the assets that would then be available for distribution among the participators.

(6) For the purposes of subsection (1), A is to be treated as having a material interest in a company at any time if either of the following conditions is met.

(7) The first condition is that—

(a) A,

(b) persons connected with A, or

(c) A and persons connected with A together,

have an entitlement to acquire such rights as would (together with any existing rights) give A a material interest in the company.

(8) The second condition is that there are arrangements in place between—

(a) the employer company or a relevant parent undertaking, and

(b) A, or persons connected with A, or A and persons connected with A together,

which enable A or those persons to acquire such rights as would (together with any existing rights) give A a material interest in the company.

(9) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

"close company" includes a company that would be a close company but for—

(a) section 442(a) of CTA 2010 (exclusion of companies not resident in the United Kingdom), or

(b) sections 446 and 447 of CTA 2010 (exclusion of certain quoted companies);

"relevant parent undertaking" means any parent undertaking of the employer company and for this purpose "parent undertaking" is to be read in accordance with section 1162 of the Companies Act 2006.

**236E Identification of exempt employee shareholder shares**

(1) Sections 104 (share pooling), 105 (disposal on or before acquisition) and 106A (identification of securities) do not apply to exempt employee shareholder shares.

(2) Subsection (3) applies where—

(a) an employee holds shares of the same class in a company,

(b) some, but not all, of the shares are exempt employee shareholder shares, and

(c) the employee disposes of some, but not all, of the shares in that holding.

(3) Where this subsection applies—

(a) the employee may determine what proportion of the shares disposed of are to be treated as exempt employee shareholder shares (up to the number of such shares which the employee holds), and

(b) the consideration received for the shares disposed of is to be apportioned accordingly.

(4) For the purposes of this section shares in a company are not to be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on a recognised stock exchange.

**236F Reorganisation of share capital involving employee shareholder shares**

(1) Section 127 (equation of original shares and new holding on reorganisation) does not apply to exempt employee shareholder shares.

(2) The reference in subsection (1) to section 127 includes that section as applied by sections 135 and 136 (other company reconstructions).

**236G Relinquishment of employment rights is not disposal of an asset**

(1) This section applies where an individual has acquired shares in consideration of entering into an employee shareholder agreement.

(2) The individual is not to be regarded as disposing of an asset by reason of the individual ceasing to have, or not acquiring, the rights mentioned in section 205A of the Employment Rights Act 1996 (rights which an employee shareholder does not have) in consequence of entering into the agreement."

**Commencement Information**

**I18** Sch. 23 para. 20 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

## PART 3 U.K.

CORPORATION TAX

21 CTA 2009 is amended as follows.

22 In section 1005 (definitions), at the appropriate place insert—

""employee shareholder share" has the meaning given by section 226A(6) of ITEPA 2003,".

**Commencement Information**

**I19** Sch. 23 para. 22 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

23 (1) Section 1009 (relief for employee share acquisitions: employee's tax position) is amended as follows.

(2) In subsection (2)(a), for "earnings within Chapter 1 of Part 3 of ITEPA 2003" substitute " relevant earnings ".

(3) After subsection (2) insert—

"(2A) Relevant earnings" means—

(a) earnings within Chapter 1 of Part 3 of ITEPA 2003, and

(b) any amount that is treated as earnings by virtue of section 226A of that Act (employee shareholder shares)."

(4) After subsection (5) insert—

"(6) Where the shares are employee shareholder shares, this section is subject to section 1038B."

**Commencement Information**

**I20** Sch. 23 para. 23 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

24 In section 1010(1) (acquisition of shares: relief if shares neither restricted nor convertible), after "section 1012" insert " and, in the case of employee shareholder shares, section 1038B ".

**Commencement Information**

**I21** Sch. 23 para. 24 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

25 (1) Section 1011 (acquisition of shares: relief if shares are restricted or convertible) is amended as follows.

(2) In subsections (2) and (3), for "earnings of the employee within Chapter 1 of Part 3 of ITEPA 2003" substitute " relevant earnings of the employee ".

(3) For subsection (4) substitute—

"(4) For the purposes of subsections (2) and (3) "relevant earnings" means—

(a) earnings within Chapter 1 of Part 3 of ITEPA 2003, and

(b) any amount that is treated as earnings by virtue of section 226A of that Act (employee shareholder shares) (but see also section 1038B of this Act),

except that it does not include any amount of exempt income (within the meaning of section 8 of ITEPA 2003)."

**Commencement Information**

**I22** Sch. 23 para. 25 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

26 In section 1018(1) (acquisition of shares pursuant to option: relief if shares neither restricted nor convertible), after "section 1020" insert " and, in the case of employee shareholder shares, section 1038B ".

**Commencement Information**

**I23** Sch. 23 para. 26 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

27 In section 1019(1) (acquisition of shares pursuant to option: relief if shares are restricted or convertible), after "section 1020" insert " and, in the case of employee shareholder shares, section 1038B ".

**Commencement Information**

**I24** Sch. 23 para. 27 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

28 In section 1022 (takeover of company whose shares are subject to option), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

**Commencement Information**

**I25** Sch. 23 para. 28 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

29 In section 1026 (restricted shares: relief available on chargeable event), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

**Commencement Information**

**I26** Sch. 23 para. 29 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

30 In section 1027 (restricted shares: relief available on death of employee), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

**Commencement Information**

**I27** Sch. 23 para. 30 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

31 In section 1033 (convertible securities: relief available on chargeable event), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

**Commencement Information**

**I28** Sch. 23 para. 31 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

32 In section 1034 (convertible securities: relief available following death of employee), after subsection (4) insert—

"(5) Where the shares are employee shareholder shares, this section is subject to section 1038B."

**Commencement Information**

**I29** Sch. 23 para. 32 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

33 (1) At the end of Chapter 6 of Part 12 insert—

**Employee shareholder shares**

"1038B For the purposes of this Part, any payment treated as made under section 226B of ITEPA 2003 (employee treated as paying £2000 for employee shareholder shares) in respect of the acquisition of shares is to be ignored when determining—

(a) whether a person is subject to a charge to tax under that Act,

(b) the amount that counts (or would have counted) as employment income under that Act, or

(c) the consideration given by a person in relation to the acquisition of the shares."

(2) Accordingly, in the heading for that Chapter, at the end insert " ETC ".

**Commencement Information**

**I30** Sch. 23 para. 33 in force at 1.9.2013 for the purposes of the amendments made by that paragraph by S.I. 2013/1755, **art. 2**

34 In section 1292 (provision of qualifying benefits), after subsection (6) insert—

"(6ZA) In determining whether condition A or B is met, any payment treated as made under section 226B of ITEPA 2003 (deemed payment for employee shareholder shares) is to be ignored."

**Commencement Information**

**I31** Sch. 23 para. 34 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

35 In section 1293 (timing and amount of certain qualifying benefits), after subsection (5) insert—

"(5A) In determining for the purposes of subsections (3) and (5) the amount that is, or would be, charged to tax under ITEPA 2003, any payment treated as made under section 226B of that Act (deemed payment for employee shareholder shares) is to be ignored."

**Commencement Information**

**I32** Sch. 23 para. 35 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

36 In Schedule 4 (index of definitions), at the appropriate place insert—

| | |
|---|---|
| "employee shareholder share (in Part 12) | section 226A(6) of ITEPA 2003 (see section 1005 of this Act)". |

**Commencement Information**

**I33** Sch. 23 para. 36 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

## PART 4 U.K.

### EMPLOYMENT INCOME EXEMPTION

37 In Chapter 11 of Part 4 of ITEPA (employment income: miscellaneous exemptions), after section 326A insert—

*"Employee shareholder agreements*

**326B Advice relating to proposed employee shareholder agreements**

(1) No liability to income tax arises by virtue of—

(a) the provision of relevant advice by a relevant independent adviser, or

(b) the payment or reimbursement, in accordance with section 205A(7) of the Employment Rights Act 1996, of any reasonable costs incurred in obtaining relevant advice.

(2) "Relevant advice" means—

(a) advice, other than tax advice, which is provided for the purposes of section 205A(6)(a) of that Act (advice as to terms and effect of employee shareholder agreement), and

(b) tax advice which is so provided and consists only of an explanation of the tax effects of employee shareholder agreements generally.

(3) In this section—

"employee shareholder agreement" means an agreement by virtue of which an employee is an employee shareholder (see section 205A(1)(a) to (d) of that Act);

"relevant independent adviser" has the meaning that it has for the purposes of section 203(3)(c) of that Act."

**Commencement Information**

**I34** Sch. 23 para. 37 in force at 1.9.2013 for the purposes of the amendment made by that paragraph by S.I. 2013/1755, **art. 2**

## PART 5 U.K.

COMMENCEMENT

38 The amendments made by this Schedule come into force in accordance with provision made by the Treasury by order made by statutory instrument.

**Changes to legislation:**
There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 23.