These notes refer to the Finance Act 2014 (c.26) which received Royal Assent on 17 July 2014

FINANCE ACT 2014

EXPLANATORY NOTES

INTRODUCTION

Section 19: Payments Made by Employer on Account of Tax Where Deduction Not Possible

Summary

1. This section changes the deadline for employees to make good to their employer the amount the employer must pay to HM Revenue and Customs in respect of the tax due on notional payments treated as made by the employer and received by the employee, before that employee is liable to a tax charge as employment income.

Details of the Section

2. Subsection (1) amends subsection (1)(c) of section 222 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) changing the time allowed for an employee to make good to the employer an amount equal to the tax that must be paid to HMRC by the employer in relation to an event that constitutes a notional payment. This deadline is currently 90 days after the notional payment is treated as made by the employer, and will be changed to 90 days after the end of the tax year in which the notional payment is treated as made by the employer.

3. Subsection (2) specifies that the change has effect in relation to notional payments treated as made on or after 6 April 2014.

Background Note

4. Where an employer is treated as making a notional payment to an employee (such as when an amount becomes chargeable to tax as employment income of the employee under an arrangement involving Employment Related Securities) deduction of tax at source is not possible but the employer is still required to pay an amount to HMRC ("the due amount") as if tax had been deducted and the employee is entitled to credit as if they had paid tax. Section 222 charges to tax as employment income, by treating as additional earnings of an employee, an amount equal to the due amount that must be paid to HMRC by the employer if the employee does not make good that amount to the employer within the time allowed. There is no charge to tax under section 222 if the employee makes good the due amount to the employer within a specified time. The amendment extends the time available for an employee to make good the due amount to the employer before that amount is treated as earnings of that employee.

5. The Office of Tax Simplification (OTS) published a report and recommendations on unapproved employee share schemes in January 2013. This report included recommendations for changes to the rules in section 222 of ITEPA, which often applies to taxable income received or treated as received by an employee under arrangements involving Employment Related Securities, but also applies to notional payments more generally.

6. This section makes changes to the rules in section 222 of ITEPA following the recommendations made by OTS and which the Government consulted on during summer 2013. A summary of responses to this consultation was published on 10 December 2013. Most of the measures arising from the OTS recommendations in relation to unapproved employee share schemes are in section 50 (Employment-related securities etc) and Schedule 7.