



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 7

[<sup>F1</sup>EMPLOYMENT INCOME: INCOME AND EXEMPTIONS RELATING TO SECURITIES]

### [<sup>F2</sup>CHAPTER 3B

SECURITIES WITH ARTIFICIALLY ENHANCED MARKET VALUE

*[<sup>F2</sup>Charge on non-commercial increases*

#### Textual Amendments

**F2** Pt. 7 Ch. 3B inserted (16.4.2003 with effect in accordance with Sch. 22 para. 6(2)-(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 6\(1\)](#)

#### **446L Charge on non-commercial increases**

- (1) This section applies in relation to employment-related securities where on a date that is the valuation date in relation to a relevant period IMV is at least 10% greater than MV.
- (2) The taxable amount determined under subsection (4) counts as employment income of the employee for the relevant tax year (but subject to sections 446M and 446N).
- (3) The “relevant tax year” is the tax year in which the valuation date falls.
- (4) The taxable amount is—

**IMV - MV**

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Charge on non-commercial increases. (See end of Document for details)*

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- (5) IMV is the market value of the employment-related securities on the valuation date.
- (6) MV is the amount that would be the market value of the employment-related securities on the valuation date if any non-commercial increases during the relevant period were disregarded.
- (7) For the purposes of subsections (5) and (6)—
  - (a) any restrictions having effect in relation to the employment-related securities on the valuation date, and
  - (b) any non-commercial reductions during the relevant period,
 are to be disregarded.

#### **446M Securities subject to restriction on valuation date**

- (1) This section applies where on the valuation date the employment-related securities are relevant restricted securities.
- (2) The amount determined under section 446L(4) is to be multiplied by CP.
- (3) CP is—

### **1- OP**

where OP is the amount that would be determined under section 428(5) (amount of charge on chargeable event in relation to restricted securities) on the valuation date if there were on that date a chargeable event (resulting in no tax charge).

- (4) For the purposes of this section the employment-related securities are relevant restricted securities if they are restricted securities or a restricted interest in securities but are not subject to—
  - (a) an election under section 430 (election to ignore outstanding restrictions) in relation to a chargeable event which occurred before the valuation date, or
  - (b) an election under section 431(1) (election to treat securities as not subject to restrictions).
- (5) If sections 425 to 430 apply to the employment-related securities in accordance with section 431(2) (election to treat securities as not subject to specified restrictions), the reference in subsection (3) to the amount that would be determined under section 428(5) is to the amount that would be so determined in accordance with section 431(2).

#### **446N Securities subject to restriction during relevant period**

- (1) This section applies where the employment-related securities have been restricted securities or a restricted interest in securities at any time during the relevant period.
- (2) DA is to be deducted from the amount determined under section 446L(4) (or, where section 446M applies, the amount determined under sections 446L(4) and 446M).
- (3) DA is the aggregate of the amounts arrived at under subsection (4) in relation to each event occurring during the relevant period that is a chargeable event in relation to the employment-related securities.
- (4) The amount is—

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**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Charge on non-commercial increases. (See end of Document for details)

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## TA- ARTA

- (5) TA is the taxable amount actually determined under section 428 in relation to the chargeable event.
- (6) ARTA is the taxable amount which would have been determined under section 428 in relation to the chargeable event if any non-commercial increases during the period—
- (a) beginning at the same time as the relevant period, and
  - (b) ending immediately before the chargeable event,
- had been disregarded.
- [<sup>F3</sup>(7) If any of the employment income arising under section 426 by virtue of the chargeable event is foreign securities income within the meaning of section 41C, reduce the taxable amount mentioned in subsection (5) by the amount of the foreign securities income.
- (8) If any of the employment income that would have arisen (if the non-commercial interests mentioned in subsection (6) had been disregarded) under section 426 by virtue of the chargeable event would have been foreign securities income (within that meaning), reduce the taxable amount mentioned in subsection (6) by the amount of the foreign securities income.]

### Textual Amendments

- F3** S. 446N(7)(8) inserted (with effect in accordance with Sch. 7 para. 80 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 7 para. 32**

### [<sup>F4</sup>446NA] Disapplication of exceptions from charges

- (1) None of the provisions specified in subsection (2) (exceptions from charges for certain company shares) apply in relation to employment-related securities if the market value of the employment-related securities at the time of the acquisition has been increased by at least 10% by non-commercial increases within the period of 7 years ending with the acquisition.
- (2) The provisions are—
- (a) section 429 (restricted securities),
  - (b) section 443 (convertible securities),
  - (c) section 446R (securities acquired for less than market value), and
  - (d) section 449 (post-acquisition benefits from securities).
- (3) If section 446L (market value on valuation date increased by more than 10% by non-commercial increases during relevant period) applies in relation to employment-related securities, section 429 does not subsequently apply in relation to the employment-related securities.]]

### Textual Amendments

- F4** S. 446NA inserted (retrospective to 7.5.2004) by Finance Act 2004 (c. 12), **s. 86(7)(8)**

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Charge on non-commercial increases.