
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Cross Heading: Restricted securities. (See end of Document for details)

SCHEDULES

SCHEDULE 2

EMPLOYEE SECURITIES: ANTI-AVOIDANCE

Restricted securities

- 3 Chapter 2 of Part 7 (restricted securities) is amended as follows.
- 4 (1) Section 424 (employment-related securities which are not restricted securities or restricted interest in securities) is renumbered as subsection (1) of that section.
- (2) In that subsection—
- (a) at the end of paragraph (a) insert “ or ”, and
 - (b) omit paragraph (c) (employment-related securities which are, or are an interest in, redeemable securities) and the word “or” before it.
- (3) After that subsection insert—
- “(2) Subsection (1) does not apply if the main purpose (or one of the main purposes) of the arrangements under which the right or opportunity to acquire the employment-related securities is made available is the avoidance of tax or national insurance contributions.”
- (4) This paragraph has effect on and after 2nd December 2004 and applies in relation to employment-related securities acquired before that date, as well as those acquired on or after that date; and section 422 of ITEPA 2003 (application of Chapter 2 of Part 7) applies to employment-related securities in relation to which this paragraph has effect and which were acquired before that date with the omission of the words “at the time of the acquisition”.
- 5 (1) In section 428 (amount of charge under section 426), after subsection (9) insert—
- “(10) But subsection (9) does not apply if something which affects the employment-related securities has been done (at or before the time of the chargeable event) as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”
- (2) This paragraph has effect where something such as is mentioned in section 428(10) of ITEPA 2003 has been done on or after 2nd December 2004.
- 6 (1) In section 429 (exception from charge under section 426 for certain company shares), for subsection (1A) substitute—
- “(1A) This subsection is satisfied unless something which affects the employment-related securities has been done (at or before the time when section 426 would apply) as part of a scheme or arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.”

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- (2) This paragraph has effect where something such as is mentioned in section 429(1A) of ITEPA 2003 has been done on or after 2nd December 2004.

- 7 (1) After section 431A insert—

“431B Securities acquired for purpose of avoidance

Where employment-related securities are restricted securities or a restricted interest in securities, the employer and the employee are to be treated as making an election under section 431(1) in relation to the employment-related securities if the main purpose (or one of the main purposes) of the arrangements under which the right or opportunity to acquire the employment-related securities is made available is the avoidance of tax or national insurance contributions.”

- (2) This paragraph has effect in relation to employment-related securities acquired on or after 2nd December 2004.

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