
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Cross Heading: Securities acquired for less than market value. (See end of Document for details)

SCHEDULES

SCHEDULE 2

EMPLOYEE SECURITIES: ANTI-AVOIDANCE

Securities acquired for less than market value

- 12 Chapter 3C of Part 7 (securities acquired for less than market value) is amended as follows.
- 13 (1) In section 446R (exception from Chapter 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 of the acquisition) 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 446R(1A) of ITEPA 2003 has been done on or after 2nd December 2004.
- 14 (1) In section 446U(1) (discharge of notional loan), insert at the end “or
- (c) something which affects the employment-related securities is done 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 443U(1) (c) of ITEPA 2003 has been done on or after 2nd December 2004.
- 15 (1) After section 446U insert—
- “446UA Pre-acquisition avoidance cases**
- (1) Sections 446S to 446U do 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.
- (2) But instead an amount equal to what would (apart from this section) be the amount of the notional loan initially outstanding by virtue of sections 446S and 446T counts as employment income of the employee for the tax year in which the acquisition takes place.”
- (2) This paragraph has effect in relation to acquisitions on or after 2nd December 2004.
- 16 (1) Section 698 (PAYE: special charges on employment-related securities) is amended as follows.
- (2) In subsection (1), after paragraph (e) insert—

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“(ea) section 446UA (securities or interest acquired for less than market value: charge in avoidance cases),”.

(3) In subsection (6), after paragraph (d) insert—

“(da) in relation to an amount counting as employment income under section 446UA, the date of the acquisition of the securities or interest in securities in question,”.

(4) This paragraph has effect on and after the day on which this Act is passed.

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