These notes refer to the Corporation Tax Act 2009 (c.4) which received Royal Assent on 26 March 2009

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 11: Relief for particular employee share acquisition schemes

Overview

Chapter 1: Share incentive plans

Section 989: Deduction for contribution to plan trust

2538. This section allows a deduction for a payment to the trustees which they use to buy shares for later award under the SIP. It is based on paragraphs 9 and 10 of Schedule 4AA to ICTA.

2539. In broad terms the purpose of this section is to give the company a deduction at the time when it funds the purchase of the shares and not when the shares are awarded to the employee. Without this section it could be difficult for companies to finance the purchase of shares in advance of them being awarded.

2540. The section applies to payments made on or after 6 April 2003. This commencement is preserved in Schedule 2 (transitionals and savings).

2541. "Plan trust" has the meaning given in paragraph 71(3) of Schedule 2 to ITEPA.

2542. *Subsection (2)* provides that at the end of the period of 12 months beginning when the trustees make the acquisition with the payment the trustees must hold at least 10% of the ordinary share capital of the company in which the shares are acquired. This total applies to all the shares held. There is no requirement that the total is made up of shares acquired using the payment.

2543. Under the SIP rules shares will be appropriated to an employee but the employee is required to leave the shares with the trustees. For example, paragraph 36(1) of Schedule 2 to ITEPA requires free shares to remain in the hands of the trustees for a holding period of at least three years. *Subsection (3)* makes clear that these shares count towards the 10% total.