



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 7

#### EMPLOYMENT INCOME: SHARE-RELATED INCOME AND EXEMPTIONS

### CHAPTER 6

#### APPROVED SHARE INCENTIVE PLANS

#### *PAYE*

#### **509 Modification of section 696 where charge on shares ceasing to be subject to plan**

- (1) Where—
  - (a) as a result of shares ceasing to be subject to an approved SIP, there is an amount that counts as employment income of a participant by virtue of the SIP code, and
  - (b) the shares are readily convertible assets,section 696 (readily convertible assets) applies as follows.
- (2) Section 696 applies as if the participant (“P”) were being provided with PAYE income in the form of those shares—
  - (a) at the time when the shares cease to be subject to the plan, and
  - (b) in respect of the relevant employment in which P is employed at that time (or, if P is not then employed in relevant employment, the relevant employment in which P was last employed before that time).
- (3) In addition, subsection (2) of section 696 applies as if the reference in that subsection to the amount of income likely to be PAYE income in respect of the provision of the

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asset were a reference to the amount which is likely to count as employment income by virtue of the SIP code as a result of the shares ceasing to be subject to the plan.

- (4) In this section “readily convertible asset” has the same meaning as in section 696 (see sections 701 and 702), but this is subject to subsection (5).
- (5) In determining for the purposes of this section (and of section 696 in its application in accordance with this section) whether the shares are readily convertible assets, any market for the shares which—
- (a) is created by virtue of the trustees acquiring shares for the purposes of the plan, and
  - (b) exists solely for the purposes of the plan,
- is to be disregarded.

**510 Payments by trustees to employer company on shares ceasing to be subject to plan**

- (1) This section applies if, as a result of any shares (“the relevant shares”) ceasing to be subject to an approved SIP—
- (a) there is an amount that counts as employment income of a participant by virtue of the SIP code, and
  - (b) an obligation to make a PAYE deduction arises in respect of that amount.
- (2) The trustees must pay to the employer company a sum which is sufficient to enable the employer company to discharge that obligation.
- (3) Subsection (2) is subject to—
- (a) subsection (4), and
  - (b) section 511 (PAYE deductions to be made by trustees on shares ceasing to be subject to plan).
- (4) Subsection (2) only applies if, or to the extent that, the plan does not require the participant to pay the employer company a sum which is sufficient to discharge the obligation mentioned in subsection (1)(b).
- (5) Section 710(1) (notional payments: accounting for tax) has effect as if it required the deduction of income tax to be made from any sum or sums received by the employer company—
- (a) from the trustees under subsection (2), or
  - (b) from the participant in accordance with a requirement of the plan, as mentioned in subsection (4).
- (6) After making the necessary PAYE deduction from the sum or sums received as mentioned in subsection (5), the employer company must pay any remaining amount to the participant.
- (7) In this section “the employer company” means—
- (a) the company which employs the participant in relevant employment at the time when the relevant shares cease to be subject to the plan, or
  - (b) if the participant is not then employed in relevant employment, the company which last employed the participant in relevant employment before that time, so long as that company is one to which PAYE regulations apply at that time.

### **511 PAYE deductions to be made by trustees on shares ceasing to be subject to plan**

- (1) This section applies if, as a result of any shares ceasing to be subject to an approved SIP—
  - (a) there is an amount that counts as employment income of a participant by virtue of the SIP code, and
  - (b) condition A or B is met.
- (2) Condition A is that the Inland Revenue—
  - (a) are of the opinion that it is impracticable for the employer company (within the meaning of section 510) to make a PAYE deduction, and
  - (b) accordingly direct that this section is to apply.
- (3) Condition B is that there is no company that qualifies as the employer company (within the meaning of that section).
- (4) If this section applies—
  - (a) section 510(2) does not apply, and
  - (b) the trustees must make a PAYE deduction in respect of the taxable equivalent as if the participant were a former employee of the trustees.
- (5) The “taxable equivalent” means an amount equal to that mentioned in subsection (1).
- (6) If this section applies, section 689 (employee of non-UK employer) does not apply.

### **512 Disposal of beneficial interest by participant**

- (1) This section applies if—
  - (a) a participant (“P”) disposes of P’s beneficial interest in any of P’s plan shares to the trustees, and
  - (b) the trustees are, as a result of paragraph 6 of Schedule 7D to TCGA 1992 (deemed disposal by trustees on disposal of beneficial interest), treated as having disposed of the shares in question.
- (2) If this section applies, sections 510 and 511 apply as if the consideration payable by the trustees to the participant on the disposal had been received by the trustees as the proceeds of disposal of plan shares.

### **513 Capital receipts: payments by trustees to employer company**

- (1) This section applies if the trustees receive a sum of money which constitutes (or forms part of) a capital receipt which, by virtue of the SIP code, counts as employment income of a participant when it is received by the participant.
- (2) Out of that sum of money the trustees must pay to the employer company an amount equal to the amount of employment income.
- (3) The employer company must then pay over that amount to the participant, but when doing so must make a PAYE deduction.
- (4) This section is subject to section 514 (capital receipts: deductions to be made by trustees).
- (5) In this section “the employer company” means—

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- (a) the company which employs the participant in relevant employment at the time when the trustees receive the sum mentioned in subsection (1), or
  - (b) if the participant is not then employed in relevant employment, the company which last employed the participant in relevant employment before that time,
- so long as that company is one to which PAYE regulations apply at that time.

#### **514 Capital receipts: PAYE deductions to be made by trustees**

- (1) This section applies if—
  - (a) the trustees receive a sum of money which constitutes (or forms part of) a capital receipt which, by virtue of the SIP code, counts as employment income of a participant when it is received by the participant, and
  - (b) either condition A or B is met.
- (2) Condition A is that the Inland Revenue—
  - (a) are of the opinion that it is impracticable for the employer company (within the meaning of section 513) to make a PAYE deduction, and
  - (b) accordingly direct that this section is to apply.
- (3) Condition B is that there is no company that qualifies as the employer company (within the meaning of that section).
- (4) If this section applies, the trustees must, when paying the capital receipt over to the participant, make a PAYE deduction in respect of the taxable equivalent as if the participant were a former employee of the trustees.
- (5) The “taxable equivalent” means an amount equal to the amount which counts as employment income as mentioned in subsection (1)(a).
- (6) If this section applies, section 689 (employee of non-UK employer) does not apply.