



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 12 U.K.

#### OTHER RELIEF FOR EMPLOYEE SHARE ACQUISITIONS

### CHAPTER 1 U.K.

#### INTRODUCTION

##### *Introductory*

#### 1001 Overview of Part U.K.

- (1) This Part provides for corporation tax relief in relation to employee share acquisitions.
- (2) Sections 1002 to 1005 relate to the interpretation of this Part.
- (3) Chapter 2 provides for relief if shares are acquired by an employee or another person because of the employee's employment by a company.
- (4) Chapter 3 provides for relief if—
  - (a) an employee or another person obtains an option to acquire shares because of the employee's employment by a company, and
  - (b) shares are acquired pursuant to the option.
- (5) Chapter 4 provides for additional relief in cases involving restricted shares.
- (6) Chapter 5 provides for additional relief in cases involving convertible shares or convertible securities that are not shares.
- (7) Chapter 6 deals with the relationship between the reliefs under this Part and other reliefs.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Interpretation*

#### **1002 “Employment” U.K.**

- (1) This section explains how references in this Part to employment (and related expressions) are to be read.
- (2) “Employment” includes a former or prospective employment.
- (3) References to employment by a company include references to holding an office with that company.
- (4) Members of a company whose affairs are managed by its members are treated as holding an office with the company.

#### **1003 “Shares” etc U.K.**

- (1) In this Part “shares” includes—
  - (a) an interest in shares, and
  - (b) stock or an interest in stock.
- (2) For the purposes of this Part shares are acquired by a person when the person acquires a beneficial interest in them (and not, if different, when they are conveyed or transferred).

#### **1004 Groups, consortiums and commercial associations of companies U.K.**

- (1) This section applies for the purposes of this Part.
- (2) Two companies are members of the same group if one is a 51% subsidiary of the other or both are 51% subsidiaries of a third company.
- (3) “Group transfer” means a transfer of a business, or a part of a business, from one company that is a member of a group to another company that is, or two or more companies that are, members of the group.
- (4) A company is a parent company of another company if that other company is its 51% subsidiary.
- (5) A company (“the consortium company”) is owned by a consortium if—
  - (a) five or fewer companies (“the shareholding companies”) between them beneficially own at least 75% of the consortium company's ordinary share capital, and
  - (b) each of the shareholding companies beneficially owns at least 10% of that capital.
- (6) Each shareholding company is a member of the consortium.
- (7) For the purposes of subsection (5) the shareholdings of members of a group of companies are to be treated as held by a single company.
- (8) And, in such a case, a member of the group of companies is a member of the consortium if the member beneficially owns some of the consortium company's ordinary share capital.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (9) “Commercial association of companies” means a company together with such of its associated companies (as defined in <sup>F1</sup>section 449 of CTA 2010]) as carry on businesses that are of such a nature that the businesses of the company and the associated companies, taken together, may be reasonably considered to make up a single composite undertaking.

#### Textual Amendments

- F1** Words in s. 1004(9) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 665** (with Sch. 2)

### 1005 Other definitions **U.K.**

In this Part—

“convertible securities” has the same meaning as in Chapter 3 of Part 7 of ITEPA 2003 (see section 436 of that Act),

“convertible shares” means shares that are—

- (a) convertible securities, or
- (b) an interest in convertible securities,

“the employee” has the meaning given by section 1007(1)(a) or 1015(1)(a) (as the case may be),

<sup>F2</sup>“employee shareholder share” has the meaning given by section 226A(6) of ITEPA 2003,]

“the employing company” has the meaning given by section 1007(1) or 1015(1) (as the case may be),

“listed company” means a company—

- (a) whose shares are listed on a recognised stock exchange, and
- (b) which is neither a close company nor a company that would be a close company if it were UK resident,

“market value” has the same meaning as in TCGA 1992 (see sections 272 and 273 of that Act),

“option” includes any right to acquire shares,

“ordinary shares” means shares forming part of a company's ordinary share capital,

“the qualifying business” has the meaning given by section 1007(1)(b) or 1015(1)(b) (as the case may be),

“the recipient” has the meaning given by section 1007(1) or 1015(1) (as the case may be),

“the relevant employment” has the meaning given by section 1007(1)(b) or 1015(1)(b) (as the case may be), and

“restricted shares” means shares that are—

- (a) restricted securities, or
- (b) a restricted interest in securities,

for the purposes of Chapter 2 of Part 7 of ITEPA 2003 (see sections 423 and 424 of that Act).

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F2** Words in s. 1005 inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 22, 38](#); [S.I. 2013/1755, art. 2](#)

## CHAPTER 2 **U.K.**

### RELIEF IF SHARES ACQUIRED BY EMPLOYEE OR OTHER PERSON

#### *Introductory*

### 1006 Overview of Chapter **U.K.**

- (1) This Chapter provides for relief if shares are acquired by an employee or another person because of the employee's employment by a company.
- (2) Sections 1007 to 1009 set out the requirements that must be met for relief to be available.
- (3) Sections 1010 to 1012 set out how the amount of relief is calculated.
- (4) Section 1013 sets out how the relief is given.

#### *Requirements to be met for relief to be available*

### 1007 Basic requirements for relief under Chapter 2 **U.K.**

- (1) Relief under this Chapter is available to a company (“the employing company”) if—
  - (a) a person (“the employee”) has employment with the employing company,
  - (b) that employment (“the relevant employment”) is in relation to a business within subsection (2) (“the qualifying business”),
  - (c) the employee or another person acquires shares because of the relevant employment,
  - (d) the conditions set out in sections 1008 and 1009 are met as mentioned in those sections, and
  - (e) relief under Chapter 3 is not available to the employing company in relation to the acquisition of the shares.

The person who acquires the shares is, in that capacity, called “the recipient”.

- (2) A business is within this subsection so far as—
  - (a) the business is carried on by the employing company, and
  - (b) the employing company is within the charge to corporation tax in relation to the profits of the business [<sup>F3</sup> or would be but for section 18A].

### Textual Amendments

**F3** Words in s. 1007(2)(b) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 13 paras. 9, 31](#)

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **1008 Conditions relating to shares acquired** **U.K.**

- (1) Each of the following conditions must be met in relation to the shares acquired.

### *Condition 1*

The shares are ordinary shares that are fully paid-up and not redeemable.

### *Condition 2*

The shares are—

- (a) shares of a class listed on a recognised stock exchange,
- (b) shares in a company that is not under the control of another company, or
- (c) shares in a company that is under the control of a listed company.

### *Condition 3*

The shares are shares in—

- (a) the employing company,
- (b) a company that, when the shares are acquired, is a parent company of the employing company,
- (c) a company that, when the shares are acquired, is a member of a consortium that owns the employing company,
- (d) a company that, when the shares are acquired, is a member of a consortium that owns a parent company of the employing company, or
- (e) a company within subsection (2).

- (2) A company (“company A”) is within this subsection if when the shares are acquired—

- (a) the employing company or a parent company of the employing company is a member of a consortium that owns another company (“company B”), and
- (b) company A is—
  - (i) a member of that consortium or a parent company of a member of that consortium, and
  - (ii) a member of the same commercial association of companies as company B.

## **1009 Conditions relating to employee's income tax position** **U.K.**

- (1) If the shares acquired are not restricted shares, the following conditions must be met in relation to the income tax position of the employee.

### *Condition 1*

The employee is subject to a charge under ITEPA 2003 in relation to the acquisition of the shares.

### *Condition 2*

Section 446UA of ITEPA 2003 does not apply in relation to the shares.

- (2) If the shares acquired are restricted shares, the following condition must be met in relation to the income tax position of the employee.

### *The Condition*

The employee—

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) has, as a result of the acquisition of the shares, [<sup>F4</sup>relevant earnings] from the relevant employment that are subject to the charge under Part 2 of that Act, or
- (b) is not within paragraph (a) but will be subject to a charge under ITEPA 2003 as a result of section 426 of that Act if an event occurs in relation to the shares that is a chargeable event for the purposes of that section.

[<sup>F5</sup>(2A) Relevant earnings” means—

- (a) earnings within Chapter 1 of Part 3 of ITEPA 2003, and
- (b) any amount that is treated as earnings by virtue of section 226A of that Act (employee shareholder shares).]

(3) Subsection (4) applies if—

- (a) the conditions are, or the condition is, not met, but
- (b) the conditions or the condition would be met if at all material times the employee had been a UK employee.

(4) This Chapter applies as if the employee had been a UK employee as mentioned in subsection (3)(b).

(5) The employee is a UK employee if—

- (a) the employee is UK resident <sup>F6</sup>..., and
- (b) the duties of the relevant employment are performed in the United Kingdom.

[<sup>F7</sup>(6) Where the shares are employee shareholder shares, this section is subject to section 1038B.]

#### Textual Amendments

- F4** Words in s. 1009(2)(a) substituted (1.9.2013) by [Finance Act 2013 \(c. 29\), Sch. 23 paras. 23\(2\)](#), 38; [S.I. 2013/1755, art. 2](#)
- F5** S. 1009(2A) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\), Sch. 23 paras. 23\(3\)](#), 38; [S.I. 2013/1755, art. 2](#)
- F6** Words in s. 1009(5)(a) omitted (with application in accordance with Sch. 46 para. 141(2) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\), Sch. 46 para. 141\(1\)](#)
- F7** [S. 1009\(6\)](#) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\), Sch. 23 paras. 23\(4\)](#), 38; [S.I. 2013/1755, art. 2](#)

### *Calculation of amount of relief*

#### **1010 Calculation of relief if shares are neither restricted nor convertible** U.K.

- (1) If the shares acquired are neither restricted shares nor convertible shares, the amount of relief to be given is an amount equal to—
- (a) the market value of the shares when they are acquired, less
  - (b) the total amount or value of any consideration given by any person in relation to the acquisition of the shares.

This is subject to section 1012 [<sup>F8</sup>and, in the case of employee shareholder shares, section 1038B] .

- (2) The consideration mentioned in subsection (1)(b) does not include the performance of any duties of, or in connection with, the relevant employment.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) A just and reasonable apportionment is to be made of any consideration given partly in relation to the acquisition of the shares and partly in relation to other matters.

#### Textual Amendments

- F8** Words in s. 1010(1) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 24, 38](#); S.I. 2013/1755, art. 2

### 1011 Calculation of relief if shares are restricted or convertible **U.K.**

- (1) If the shares acquired are restricted shares or convertible shares (or both), the amount of relief to be given is calculated as follows.

This is subject to section 1012.

- (2) If the shares are restricted shares, the amount of relief is equal to the amount that, as a result of the acquisition of the shares, is [<sup>F9</sup>relevant earnings of the employee] from the relevant employment.
- (3) If the shares are convertible shares, the amount of relief is equal to the amount that, as a result of the acquisition of the shares, is [<sup>F10</sup>relevant earnings of the employee] from the relevant employment.

In calculating the employee's earnings for this purpose the market value of the shares is to be determined as if they were not convertible shares.

- [<sup>F11</sup>(4) For the purposes of subsections (2) and (3) “relevant earnings” means—
- (a) earnings within Chapter 1 of Part 3 of ITEPA 2003, and
  - (b) any amount that is treated as earnings by virtue of section 226A of that Act (employee shareholder shares) (but see also section 1038B of this Act),
- except that it does not include any amount of exempt income (within the meaning of section 8 of ITEPA 2003).]
- (5) If the shares are both restricted and convertible, the total amount of relief is whichever is the greater of the amounts of relief given by subsections (2) and (3) (or, if the amount is the same in each case, that amount).

#### Textual Amendments

- F9** Words in s. 1011(2) substituted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 25\(2\), 38](#); S.I. 2013/1755, art. 2
- F10** Words in s. 1011(3) substituted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 25\(2\), 38](#); S.I. 2013/1755, art. 2
- F11** S. 1011(4) substituted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 25\(3\), 38](#); S.I. 2013/1755, art. 2

### 1012 Reduction in amount of relief **U.K.**

- (1) This section applies if the relevant employment is in relation to both the qualifying business and a business (or part of a business) that is not within section 1007(2).
- (2) The amount of relief is to be reduced by a just and reasonable amount.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Giving of relief*

#### **1013 How the relief is given** **U.K.**

- (1) The relief is given for the accounting period in which the shares are acquired.
- (2) The amount of relief is allowed as a deduction in calculating the profits of the qualifying business for corporation tax purposes (subject to subsections (3) and (4)).
- (3) If the employing company is a company with investment business (as defined in <sup>[F12]</sup>section 1218B], the amount of relief is treated as expenses of management of the company.

But this subsection does not apply if the qualifying business is a property business (in which case subsection (2) applies instead).

<sup>[F13]</sup>(4) If—

- (a) the employing company is a company in relation to which the I - E rules apply, and
  - (b) the relief is referable, in accordance with Chapter 4 of Part 2 of FA 2012, to the employing company's basic life assurance and general annuity business, the amount of relief is treated for the purposes of section 76 of that Act as ordinary BLAGAB management expenses of the company referable to the accounting period.]
- (5) If the relevant employment is in relation to more than one business (or part of a business) within section 1007(2), the relief is to be apportioned on a just and reasonable basis.

#### **Textual Amendments**

- F12** Words in s. 1013(3) substituted (with effect in accordance with Sch. 18 para. 23 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 18 paras. 21\(2\), 22](#); [S.I. 2013/1817, art. 2\(2\)](#); [S.I. 2014/1962, art. 2\(3\)](#)
- F13** S. 1013(4) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 188](#)

## **CHAPTER 3** **U.K.**

### RELIEF IF EMPLOYEE OR OTHER PERSON OBTAINS OPTION TO ACQUIRE SHARES

#### *Introductory*

#### **1014 Overview of Chapter** **U.K.**

- (1) This Chapter provides for relief if—
  - (a) an employee or another person obtains an option to acquire shares because of the employee's employment by a company, and
  - (b) shares are acquired pursuant to the option.
- (2) Sections 1015 to 1017 set out the requirements that must be met for relief to be available.
- (3) Sections 1018 to 1020 set out how the amount of relief is calculated.



*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Section 1021 sets out how the relief is given.
- (5) Sections 1022 and 1023 deal with cases in which a person obtains an option to acquire shares in a company and that company is subsequently taken over.
- (6) Section 1024 provides for relief to be given to a successor company if the qualifying business is transferred by group transfers.

*Requirements to be met for relief to be available*

**1015 Basic requirements for relief under Chapter 3** **U.K.**

- (1) Relief under this Chapter is available to a company (“the employing company”) if—
  - (a) a person (“the employee”) has employment with the employing company,
  - (b) that employment (“the relevant employment”) is in relation to a business within subsection (2) (“the qualifying business”),
  - (c) the employee or another person obtains an option to acquire shares because of the relevant employment,
  - (d) the person who obtains the option acquires shares pursuant to the option, and
  - (e) the conditions set out in sections 1016 and 1017 are met as mentioned in those sections.

The person who obtains the option is, in that capacity, called “the recipient”.

- (2) A business is within this subsection so far as—
  - (a) the business is carried on by the employing company, and
  - (b) the employing company is within the charge to corporation tax in relation to the profits of the business [<sup>F14</sup> or would be but for section 18A].
- (3) If—
  - (a) the recipient dies, and
  - (b) subsequently another person acquires shares pursuant to the option,this Chapter applies as if the recipient were alive and the shares were acquired by the recipient.

**Textual Amendments**

**F14** Words in s. 1015(2)(b) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 13 paras. 10, 31](#)

**1016 Conditions relating to shares acquired** **U.K.**

- (1) Each of the following conditions must be met in relation to the shares acquired.

*Condition 1*

The shares are ordinary shares that are fully paid-up and not redeemable.

*Condition 2*

The shares are—

- (a) shares of a class listed on a recognised stock exchange,

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) shares in a company that is not under the control of another company, or
- (c) shares in a company that is under the control of a listed company.

### *Condition 3*

The shares are shares in—

- (a) the employing company,
  - (b) a company that, when the option is obtained, is a parent company of the employing company,
  - (c) a company that, when the option is obtained, is a member of a consortium that owns the employing company,
  - (d) a company that, when the option is obtained, is a member of a consortium that owns a parent company of the employing company,
  - (e) a company within subsection (2), or
  - (f) a qualifying successor company (see section 1022).
- (2) A company (“company A”) is within this subsection if when the option is obtained—
- (a) the employing company or a parent company of the employing company is a member of a consortium that owns another company (“company B”), and
  - (b) company A is—
    - (i) a member of that consortium or a parent company of a member of that consortium, and
    - (ii) a member of the same commercial association of companies as company B.

## **1017 Condition relating to employee's income tax position U.K.**

- (1) The following condition must be met in relation to the income tax position of the employee.

### *The Condition*

The acquisition of the shares is a chargeable event in relation to the employee for the purposes of section 476 of ITEPA 2003 (whether or not an amount counts as employment income of the employee because of that event).

- (2) Subsection (3) applies if the condition—
- (a) is not met, but
  - (b) would be met if at all material times the employee had been a UK employee.
- (3) This Chapter applies as if the employee had been a UK employee as mentioned in subsection (2)(b).
- (4) The employee is a UK employee if—
- (a) the employee is UK resident<sup>F15</sup> ..., and
  - (b) the duties of the relevant employment are performed in the United Kingdom.
- (5) If the employee is dead when the shares are acquired, the condition is to be treated as met if it would have been met had the employee been alive.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F15** Words in s. 1017(4)(a) omitted (with application in accordance with Sch. 46 para. 142(2) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 142\(1\)](#)

### *Calculation of amount of relief*

#### **1018 Calculation of relief if shares are neither restricted nor convertible** **U.K.**

- (1) If the shares acquired are neither restricted shares nor convertible shares, the amount of relief to be given is an amount equal to—
- the market value of the shares when they are acquired, less
  - the total amount or value of any consideration given by any person in relation to the obtaining of the option or to the acquisition of the shares.

This is subject to section 1020 <sup>F16</sup>and, in the case of employee shareholder shares, section 1038B] .

- (2) The consideration mentioned in subsection (1)(b) does not include—
- the performance of any duties of, or in connection with, the relevant employment, and
  - an amount paid or payable by the employee because of—
    - an agreement within paragraph 3A(2) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (c. 4) or of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), or
    - an election under paragraph 3B of either of those Schedules.
- (3) A just and reasonable apportionment is to be made of any consideration given partly in relation to the obtaining of the option or the acquisition of the shares and partly in relation to other matters.

#### Textual Amendments

- F16** Words in s. 1018(1) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 26, 38](#); [S.I. 2013/1755](#), art. 2

#### **1019 Calculation of relief if shares are restricted or convertible** **U.K.**

- (1) If the shares acquired are restricted shares or convertible shares (or both), the amount of relief to be given is calculated as follows.

This is subject to section 1020 <sup>F17</sup>and, in the case of employee shareholder shares, section 1038B] .

- (2) If the shares are restricted shares, the amount of relief is equal to—
- the amount that counts as employment income of the employee under section 476 of ITEPA 2003 in relation to the acquisition of the shares, or
  - if the option is a qualifying option (within the meaning of the EMI code), the amount that would have so counted apart from the EMI code.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) If the shares are convertible shares, the amount of relief is equal to—
- (a) the amount that counts as employment income of the employee under section 476 of ITEPA 2003 in relation to the acquisition of the shares, or
  - (b) if the option is a qualifying option (within the meaning of the EMI code), the amount that would have so counted apart from the EMI code;
- and in calculating the employee's employment income for this purpose the market value of the shares is to be determined as if they were not convertible shares.
- (4) For the purposes of subsections (2) and (3)—
- (a) no account is to be taken of any relief under section 481 or 482 of ITEPA 2003, and
  - (b) “the EMI code” has the meaning given by section 527(3) of that Act.
- (5) If the shares are both restricted and convertible, the total amount of relief is whichever is the greater of the amounts of relief given by subsections (2) and (3) (or, if the amount is the same in each case, that amount).
- (6) If the employee is dead when the shares are acquired, the amount of relief is to be calculated as if the employee were alive.

#### Textual Amendments

**F17** Words in s. 1019(1) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 27, 38](#); [S.I. 2013/1755, art. 2](#)

### 1020 Reduction in amount of relief **U.K.**

- (1) This section applies if the relevant employment is in relation to both the qualifying business and a business (or part of a business) that is not within section 1015(2).
- (2) The amount of relief is to be reduced by a just and reasonable amount.

#### *Giving of relief*

### 1021 How the relief is given **U.K.**

- (1) The relief is given for the accounting period in which the shares are acquired.
- (2) The amount of relief is allowed as a deduction in calculating the profits of the qualifying business for corporation tax purposes (subject to subsections (3) and (4)).
- (3) If the employing company is a company with investment business (as defined in <sup>[F18]</sup>section 1218B), the amount of relief is treated as expenses of management of the company.

But this subsection does not apply if the qualifying business is a property business (in which case subsection (2) applies instead).

<sup>[F19]</sup>(4) If—

- (a) the employing company is a company in relation to which the I - E rules apply, and

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) the relief is referable, in accordance with Chapter 4 of Part 2 of FA 2012, to the employing company's basic life assurance and general annuity business, the amount of relief is treated for the purposes of section 76 of that Act as ordinary BLAGAB management expenses of the company referable to the accounting period.]
- (5) If the relevant employment is in relation to more than one business (or part of a business) within section 1015(2), the relief is to be apportioned on a just and reasonable basis.

#### Textual Amendments

- F18** Words in s. 1021(3) substituted (with effect in accordance with Sch. 18 para. 23 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 18 paras. 21\(2\), 22](#); [S.I. 2013/1817](#), [art. 2\(2\)](#); [S.I. 2014/1962](#), [art. 2\(3\)](#)
- F19** S. 1021(4) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 189](#)

### *Takeovers and transfers of businesses*

## **1022 Takeover of company whose shares are subject to option** **U.K.**

- (1) This section applies if—
- a person (“P”) obtains a qualifying option to acquire shares in a company,
  - subsequently there is a takeover of that company,
  - P, by agreement with the acquiring company, releases P's rights under the qualifying option in consideration of P's obtaining another option (“the new option”), and
  - the new option is an option to acquire shares in a qualifying company.

Section 1023 explains what is meant by “qualifying option”, “takeover”, “the acquiring company” and “qualifying company”.

- (2) This Chapter applies as if shares acquired pursuant to the new option are acquired pursuant to the qualifying option.
- (3) The company whose shares are subject to the new option is a qualifying successor company for the purposes of paragraph (f) of condition 3 in section 1016 (condition relating to shares acquired).
- (4) In calculating the amount of any relief resulting from this section—
- any consideration given in relation to the obtaining of the new option is treated as consideration given in relation to the obtaining of the qualifying option, and
  - any consideration given in relation to the acquisition of shares pursuant to the new option is treated as consideration given in relation to the acquisition of shares pursuant to the qualifying option.

The consideration covered by paragraph (a) does not include the consideration mentioned in subsection (1)(c).

[<sup>F20</sup>(5) Where the shares are employee shareholder shares, this section is subject to section 1038B.]

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F20** S. 1022(5) inserted (1.9.2013) by Finance Act 2013 (c. 29), Sch. 23 paras. 28, 38; S.I. 2013/1755, art. 2

## 1023 Supplementary provision for purposes of section 1022 **U.K.**

- (1) This section applies for the purposes of section 1022.
- (2) An option is a qualifying option if condition 3 in section 1016 would be met in relation to shares acquired pursuant to the option.
- (3) There is a takeover of a company when another company (“the acquiring company”) acquires control of it.
- (4) The following companies are qualifying companies—
  - (a) the acquiring company,
  - (b) a company that, when the takeover occurs, is a parent company of the acquiring company,
  - (c) a company that, when the takeover occurs, is a member of a consortium that owns the acquiring company,
  - (d) a company that, when the takeover occurs, is a member of a consortium that owns a parent company of the acquiring company, and
  - (e) a company within subsection (5).
- (5) A company (“company A”) is within this subsection if when the takeover occurs—
  - (a) the acquiring company or a parent company of the acquiring company is a member of a consortium that owns another company (“company B”), and
  - (b) company A is—
    - (i) a member of that consortium or a parent company of a member of that consortium, and
    - (ii) a member of the same commercial association of companies as company B.

## 1024 Transfer of qualifying business by group transfers **U.K.**

- (1) This section applies in relation to relief to be given under this Chapter if—
  - (a) during the option period, the whole, or substantially the whole, of the qualifying business is transferred, and
  - (b) conditions A and B are met.
- (2) Condition A is that—
  - (a) the transfer is a group transfer, or
  - (b) if there is more than one transfer, all the transfers are group transfers.
- (3) Condition B is that, as a result of the transfer or transfers, at the end of the option period—
  - (a) the whole, or substantially the whole, of the qualifying business is carried on by one company (“the successor company”) only and that company is not the employing company, or

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) the whole, or substantially the whole, of the qualifying business is carried on by companies (“the successor companies”) none of which is the employing company.
- (4) The relief is to be given to—
- (a) the successor company, or
  - (b) whichever one of the successor companies is nominated by them,
- instead of the employing company (and references to the employing company in section 1021(3) and (4) are to be read as references to the company to which the relief is to be given).
- (5) In this section “the option period” means the period—
- (a) beginning when the option is obtained, and
  - (b) ending when the shares are acquired.

## CHAPTER 4 U.K.

### ADDITIONAL RELIEF IN CASES INVOLVING RESTRICTED SHARES

#### 1025 Additional relief available if shares acquired are restricted shares U.K.

- (1) This Chapter applies if—
- (a) relief (“the original relief”) is available under Chapter 2 or 3 in relation to an acquisition of restricted shares, and
  - (b) after the acquisition—
    - (i) an event that is a chargeable event in relation to the restricted shares for the purposes of section 426 of ITEPA 2003 occurs, or
    - (ii) Chapter 2 of Part 7 of ITEPA 2003 ceases to apply to the restricted shares because the employee dies (see section 421B(4) and (6) of that Act).

For the purposes of paragraph (a) it does not matter if the amount of relief is calculated as nil.

- (2) Relief under this Chapter is available to the employing company.
- (3) Subsection (4) applies if section 426 of ITEPA 2003—
- (a) does not apply in relation to the restricted shares, but
  - (b) would apply if at all material times the employee had been a UK employee.
- (4) This Chapter applies as if the employee had been a UK employee as mentioned in subsection (3)(b).
- (5) The employee is a UK employee if—
- (a) the employee is UK resident <sup>F21</sup>..., and
  - (b) the duties of the relevant employment are performed in the United Kingdom.
- (6) If—
- (a) the original relief is available as a result of section 1015(3) (death of recipient), and
  - (b) the recipient is not the employee,



*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

this Chapter applies as if the recipient were alive and the restricted shares were acquired by the recipient.

- (7) If the original relief is available as a result of section 1022 (takeover of company whose shares are subject to an option), this Chapter applies as if the restricted shares were acquired pursuant to the qualifying option mentioned in that section.
- (8) To find out what accounting period the relief is given for and how to calculate the amount of relief, see—
  - (a) section 1026 for relief available as a result of the occurrence of a chargeable event, and
  - (b) section 1027 for relief available as a result of the employee's death.

Those sections are supplemented by section 1028.
- (9) Section 1029 provides for the relief to be given to a successor company if the qualifying business is transferred by group transfers.

#### Textual Amendments

**F21** Words in s. 1025(5)(a) omitted (with application in accordance with Sch. 46 para. 143(2) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 143\(1\)](#)

### 1026 Relief available on occurrence of chargeable event **U.K.**

- (1) This section applies in relation to relief available as a result of the occurrence of a chargeable event.
  - (2) The relief is given for the accounting period in which the chargeable event occurs.
  - (3) The amount of relief is equal to the amount that counts as employment income of the employee under section 426 of ITEPA 2003 in relation to the chargeable event.
  - (4) For the purposes of subsection (3) the following are to be ignored—
    - (a) any relief under section 428A of ITEPA 2003,
    - (b) section 446E(6) of ITEPA 2003, and
    - (c) the amount of any non-commercial increase (as defined in section 446K(4) of ITEPA 2003) in the market value of the restricted shares after their acquisition.
- [<sup>F22</sup>(5) Where the shares are employee shareholder shares, this section is subject to section 1038B.]

#### Textual Amendments

**F22** [S. 1026\(5\)](#) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 29, 38](#); [S.I. 2013/1755](#), art. 2

### 1027 Relief available on death of employee **U.K.**

- (1) This section applies in relation to relief available as a result of the employee's death.
- (2) The relief is given for the accounting period in which the employee dies.



*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The amount of relief is equal to the amount that would have counted as employment income of the employee under section 426 of ITEPA 2003 had a chargeable event within section 427(3)(c) of that Act occurred immediately before Chapter 2 of Part 7 of that Act ceased to apply to the restricted shares because of the employee's death.
- (4) For the purposes of subsection (3)—
  - (a) the amount of expenses resulting from section 428(6) of ITEPA 2003 is to be treated as nil, and
  - (b) the following are to be ignored—
    - (i) sections 428(9) and 446E(6) of ITEPA 2003, and
    - (ii) the amount of any non-commercial increase (as defined in section 446K(4) of ITEPA 2003) in the market value of the restricted shares after their acquisition.

[<sup>F23</sup>(5) Where the shares are employee shareholder shares, this section is subject to section 1038B.]

#### Textual Amendments

**F23** S. 1027(5) inserted (1.9.2013) by Finance Act 2013 (c. 29), Sch. 23 paras. 30, 38; S.I. 2013/1755, art. 2

### 1028 Supplementary provision for purposes of sections 1026 and 1027 **U.K.**

- (1) If section 1012 or 1020 (reduction in amount of relief) applies in relation to the original relief, that section applies in relation to the relief under this Chapter as it applies in relation to the original relief.
- (2) For the purposes of the giving of the relief under this Chapter—
  - (a) if the original relief is available under Chapter 2, apply section 1013(2) to (5), and
  - (b) if the original relief is available under Chapter 3, apply section 1021(2) to (5).

### 1029 Transfer of qualifying business by group transfers **U.K.**

- (1) This section applies in relation to relief to be given under this Chapter if—
  - (a) during the interim period (see subsections (5) to (7)), the whole, or substantially the whole, of the qualifying business is transferred, and
  - (b) conditions A and B are met.
- (2) Condition A is that—
  - (a) the transfer is a group transfer, or
  - (b) if there is more than one transfer, all the transfers are group transfers.
- (3) Condition B is that, as a result of the transfer or transfers, at the end of the interim period—
  - (a) the whole, or substantially the whole, of the qualifying business is carried on by one company (“the successor company”) only and that company is not the employing company, or

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) the whole, or substantially the whole, of the qualifying business is carried on by companies (“the successor companies”) none of which is the employing company.
- (4) The relief is to be given to—
- (a) the successor company, or
  - (b) whichever one of the successor companies is nominated by them,
- instead of the employing company (and references to the employing company in section 1013(3) and (4) or 1021(3) and (4) (as applied by section 1028(2)) are to be read as references to the company to which the relief is to be given).
- (5) “The interim period” is to be read in accordance with subsections (6) and (7).
- (6) The interim period begins—
- (a) if the original relief is available under Chapter 2, when the restricted shares are acquired, and
  - (b) if the original relief is available under Chapter 3, when the option is obtained.
- (7) The interim period ends—
- (a) if the relief under this Chapter is available as a result of the occurrence of a chargeable event, when the chargeable event occurs, and
  - (b) if the relief under this Chapter is available as a result of the employee's death, when the employee dies.

## CHAPTER 5 **U.K.**

### ADDITIONAL RELIEF IN CASES INVOLVING CONVERTIBLE SECURITIES

#### **1030 Application of Chapter **U.K.****

- (1) This Chapter applies if relief under Chapter 2 or 3 is available in relation to an acquisition of convertible shares.
- (2) This Chapter also applies if—
- (a) there is an acquisition of convertible securities that are not shares, and
  - (b) relief under Chapter 2 or 3 would have been available in relation to the acquisition but for the fact that the securities were not shares in relation to which all the conditions set out in section 1008 or 1016 were met.
- (3) For the purposes of subsections (1) and (2)(b) it does not matter if the amount of relief is calculated or would have been calculated as nil.
- (4) In this Chapter—
- “the acquired securities” means the convertible shares mentioned in subsection (1) or the convertible securities mentioned in subsection (2),
  - “convertible securities” includes an interest in convertible securities, and
  - “the original relief” means the relief mentioned in subsection (1) or (2)(b).
- (5) If the original relief is or would have been available as a result of section 1015(3) (death of recipient), this Chapter applies as if the recipient were alive and the acquired securities were acquired by the recipient.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) If the original relief is or would have been available as a result of section 1022 (takeover of company whose shares are subject to an option), this Chapter applies as if the acquired securities were acquired pursuant to the qualifying option mentioned in that section.

### **1031 Additional relief available if shares acquired are convertible shares etc** **U.K.**

- (1) Relief under this Chapter is available to the employing company if, after the acquisition of the acquired securities, a chargeable event (see section 1032) occurs in relation to those securities.
- (2) Relief under this Chapter is also available to the employing company if the employee—
  - (a) is dead when that acquisition occurs, or
  - (b) dies after that acquisition.
- (3) But relief resulting from subsection (2) does not become available until the occurrence of the first event (referred to in this Chapter as “the relief event”) occurring after the employee's death that would have been a chargeable event in relation to the acquired securities had the employee been alive.
- (4) To find out what accounting period the relief is given for and how to calculate the amount of relief, see—
  - (a) section 1033 for relief available as a result of the occurrence of a chargeable event, and
  - (b) section 1034 for relief available as a result of the employee's death.Those sections are supplemented by section 1035.
- (5) Section 1036 provides for the relief to be given to a successor company if the qualifying business is transferred by group transfers.

### **1032 Meaning of “chargeable event”** **U.K.**

- (1) In this Chapter “chargeable event” means an event that—
  - (a) is a chargeable event for the purposes of section 438 of ITEPA 2003,
  - (b) is within section 439(3)(a) of ITEPA 2003, and
  - (c) is within subsection (2).
- (2) An event is within this subsection if it is the conversion of convertible securities into shares in relation to which—
  - (a) if the original relief is or would have been available under Chapter 2, all the conditions set out in section 1008 are met, or
  - (b) if the original relief is or would have been available under Chapter 3, all the conditions set out in section 1016 are met (ignoring paragraph (f) of condition 3).
- (3) Subsection (4) applies if section 438 of ITEPA 2003—
  - (a) does not apply in relation to the acquired securities, but
  - (b) would apply if at all material times the employee had been a UK employee.
- (4) This Chapter applies as if the employee had been a UK employee as mentioned in subsection (3)(b).

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) The employee is a UK employee if—
- (a) the employee is UK resident <sup>F24</sup> ..., and
  - (b) the duties of the relevant employment are performed in the United Kingdom.

#### Textual Amendments

**F24** Words in s. 1032(5)(a) omitted (with application in accordance with Sch. 46 para. 144(2) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 144\(1\)](#)

### 1033 Relief available on occurrence of chargeable event **U.K.**

- (1) This section applies in relation to relief available as a result of the occurrence of a chargeable event.
- (2) The relief is given for the accounting period in which the chargeable event occurs.
- (3) The amount of relief is equal to the amount that counts as employment income of the employee under section 438 of ITEPA 2003 in relation to the chargeable event.
- (4) For the purposes of subsection (3) the following are to be ignored—
  - (a) any relief under section 442A of ITEPA 2003, and
  - (b) sections 446G and 446H of ITEPA 2003.

[<sup>F25</sup>(5) Where the shares are employee shareholder shares, this section is subject to section 1038B.]

#### Textual Amendments

**F25** [S. 1033\(5\)](#) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 31, 38](#); [S.I. 2013/1755](#), art. 2

### 1034 Relief available following death of employee **U.K.**

- (1) This section applies in relation to relief available as a result of the employee's death.
- (2) The relief is given for the accounting period in which the relief event occurs.
- (3) The amount of relief is equal to the amount that would have counted as employment income of the employee under section 438 of ITEPA 2003 in relation to the relief event had the employee been alive.
- (4) For the purposes of subsection (3) sections 446G and 446H of ITEPA 2003 are to be ignored.

[<sup>F26</sup>(5) Where the shares are employee shareholder shares, this section is subject to section 1038B.]

#### Textual Amendments

**F26** [S. 1034\(5\)](#) inserted (1.9.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 23 paras. 32, 38](#); [S.I. 2013/1755](#), art. 2

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### **1035 Supplementary provision for purposes of sections 1033 and 1034** **U.K.**

- (1) If section 1012 or 1020 (reduction in amount of relief) applies or would have applied in relation to the original relief, that section applies in relation to the relief under this Chapter as it applies or would have applied in relation to the original relief.
- (2) For the purposes of the giving of the relief under this Chapter—
  - (a) if the original relief is or would have been available under Chapter 2, apply section 1013(2) to (5), and
  - (b) if the original relief is or would have been available under Chapter 3, apply section 1021(2) to (5).

### **1036 Transfer of qualifying business by group transfers** **U.K.**

- (1) This section applies in relation to relief to be given under this Chapter if—
  - (a) during the interim period (see subsections (5) to (7)), the whole, or substantially the whole, of the qualifying business is transferred, and
  - (b) conditions A and B are met.
- (2) Condition A is that—
  - (a) the transfer is a group transfer, or
  - (b) if there is more than one transfer, all the transfers are group transfers.
- (3) Condition B is that, as a result of the transfer or transfers, at the end of the interim period—
  - (a) the whole, or substantially the whole, of the qualifying business is carried on by one company (“the successor company”) only and that company is not the employing company, or
  - (b) the whole, or substantially the whole, of the qualifying business is carried on by companies (“the successor companies”) none of which is the employing company.
- (4) The relief is to be given to—
  - (a) the successor company, or
  - (b) whichever one of the successor companies is nominated by them,  
instead of the employing company (and references to the employing company in section 1013(3) and (4) or 1021(3) and (4) (as applied by section 1035(2)) are to be read as references to the company to which the relief is to be given).
- (5) “The interim period” is to be read in accordance with subsections (6) and (7).
- (6) The interim period begins—
  - (a) if the original relief is or would have been available under Chapter 2, when the acquired securities are acquired, and
  - (b) if the original relief is or would have been available under Chapter 3, when the option is obtained.
- (7) The interim period ends—
  - (a) if the relief under this Chapter is available as a result of the occurrence of a chargeable event, when the chargeable event occurs, and
  - (b) if the relief under this Chapter is available as a result of the employee's death, when the relief event occurs.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## CHAPTER 6 U.K.

### RELATIONSHIP BETWEEN RELIEF UNDER THIS PART AND OTHER RELIEFS <sup>[F27]</sup>ETC]

#### Textual Amendments

**F27** Word in Pt. 12 Ch. 6 heading inserted (1.9.2013) by [Finance Act 2013 \(c. 29\), Sch. 23 paras. 33\(2\), 38; S.I. 2013/1755, art. 2](#)

### 1037 Priority of Chapter 1 of Part 11 U.K.

- (1) Deductions available under Chapter 1 of Part 11 (relief for particular employee share acquisition schemes: share incentive plans) are to be given priority over relief under this Part.
- (2) No relief is available under this Part in relation to shares in respect of which a deduction is allowable, or has been made, under that Chapter.

### <sup>[F28]</sup>1038 Exclusion of other deductions U.K.

- (1) Subsection (2) applies if relief is or, apart from condition 2 in section 1009(1), would be available under this Part.  
  
For this purpose, it does not matter if the amount of the relief is or would be calculated as nil.
- (2) Except as provided for by this Part, for the purpose of calculating any company's profits for corporation tax purposes for any accounting period, no deduction is allowed—
  - (a) in relation to the provision of the shares or to any matter connected with the provision of the shares, or
  - (b) so far as not covered by paragraph (a) in a case in which the shares are acquired pursuant to an option, in relation to the option or to any matter connected with the option.
- (3) In a case in which section 1022 has applied, in subsection (2)(b) references to the option cover the new option and any relevant earlier qualifying option.
- (4) For the purposes of subsection (2) it does not matter if the accounting period in question falls wholly before or after the time at which the shares are acquired.
- (5) In a case in which the shares are acquired under an employee share scheme, the deductions disallowed by subsection (2) include (in particular) deductions for amounts paid or payable by the employing company in relation to the participation of the employee in the scheme.
- (6) But subsection (2) does not disallow deductions for—
  - (a) expenses incurred in setting up the scheme,
  - (b) expenses incurred in meeting, or contributing to, the costs of administering the scheme,
  - (c) the costs of borrowing for the purposes of the scheme, or
  - (d) fees, commission, stamp duty, stamp duty reserve tax, and similar incidental expenses of acquiring the shares.

*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) “Employee share scheme” means a scheme or arrangement for enabling shares to be acquired because of persons' employment.
- (8) In a case in which relief is or, apart from condition 2 in section 1009(1), would be available under Chapter 5 by virtue of section 1030(2), subsection (2) does not disallow deductions in relation to the provision of the convertible securities.]

#### Textual Amendments

**F28** S. 1038 substituted (with effect in accordance with s. 40(4)-(6) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 40\(2\)](#)

### [<sup>F29</sup>1038] ~~Exclusion of deductions for share options: shares not acquired~~ **U.K.**

- (1) Subsection (2) applies if—
- a person obtains an option to acquire shares and the requirements of section 1015(1)(a) to (c) are met in relation to the obtaining of the option, or
  - so far as not covered by paragraph (a), a person obtains an option to acquire shares and the obtaining of the option is connected with an option previously obtained in a case covered by paragraph (a) or this paragraph.
- (2) For the purpose of calculating any company's profits for corporation tax purposes for any accounting period, no deduction is allowed in relation to—
- the option, or
  - any matter connected with the option,
- unless the shares are acquired pursuant to the option.
- (3) For the purposes of subsection (2) it does not matter if the accounting period in question falls wholly before or after the time at which the option is obtained.
- (4) In a case in which the shares would be acquired under an employee share scheme, the deductions disallowed by subsection (2) include (in particular) deductions for amounts paid or payable by the employing company in relation to the participation of the employee in the scheme.
- (5) But subsection (2) does not disallow deductions for—
- expenses incurred in setting up the scheme,
  - expenses incurred in meeting, or contributing to, the costs of administering the scheme,
  - the costs of borrowing for the purposes of the scheme, or
  - fees, commission, stamp duty, stamp duty reserve tax, and similar incidental expenses of acquiring the shares.
- (6) “Employee share scheme” means a scheme or arrangement for enabling shares to be acquired because of persons' employment.
- (7) Subsection (2) does not disallow deductions for—
- amounts on which the employee is subject to a charge under ITEPA 2003,
  - amounts on which the employee would have been subject to a charge under ITEPA 2003 had the employee been a UK employee at all material times, or



*Status: Point in time view as at 01/09/2013.*

*Changes to legislation: Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) if the employee has died, amounts on which the employee would have been subject to a charge under ITEPA 2003 had the employee been alive.
- (8) “UK employee” is to be read in accordance with section 1017(4).]

**Textual Amendments**

**F29** S. 1038A inserted (with effect in accordance with s. 40(4)(7)(8) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 40\(3\)](#)

**[<sup>F30</sup>1038B Employee shareholder shares U.K.**

For the purposes of this Part, any payment treated as made under section 226B of ITEPA 2003 (employee treated as paying £2000 for employee shareholder shares) in respect of the acquisition of shares is to be ignored when determining—

- (a) whether a person is subject to a charge to tax under that Act,
- (b) the amount that counts (or would have counted) as employment income under that Act, or
- (c) the consideration given by a person in relation to the acquisition of the shares.]

**Textual Amendments**

**F30** S. 1038B inserted (1.9.2013) by [Finance Act 2013 \(c. 29\), Sch. 23 paras. 33\(1\), 38; S.I. 2013/1755, art. 2](#)



**Status:**

Point in time view as at 01/09/2013.

**Changes to legislation:**

Corporation Tax Act 2009, Part 12 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.