



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 7

[^{F1}EMPLOYMENT INCOME: INCOME AND EXEMPTIONS RELATING TO SECURITIES]

CHAPTER 8

^{F1}... CSOP SCHEMES

Textual Amendments

F1 Word in Pt. 7 Ch. 8 title omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), Sch. 8 paras. 159, 204 (with Sch. 8 paras. 205-215)

Introduction

521 ^{F2}... CSOP schemes

(1) This Chapter provides—

- ^{F3}(a)
- (b) for exemptions from income tax in connection with share options granted under [^{F4}CSOP schemes which are Schedule 4 CSOP] schemes, and
- (c) for amounts to count as employment income in certain circumstances in connection with such options.

^{F5}(2)

(3) The provisions of—

- (a) this and the following sections of this Chapter,

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- (b) Schedule 4, and
 - (c) Part 3 of Schedule 7D to TCGA 1992 ([^{F6}Schedule 4] CSOP schemes: amount of consideration on exercise of option),
- together constitute “the CSOP code”.
- (4) In the CSOP code—
- ^{F7} ...
- “CSOP scheme” means a scheme (commonly referred to as a company share option plan) which—
- (a) is established by a company,
 - (b) provides for share options to be granted to employees and directors, and
 - (c) is not an SAYE option scheme (within the meaning of the SAYE code: see section 516(4));
- [^{F8}“Schedule 4 CSOP scheme” is to be read in accordance with paragraph 1 and Part 7 of Schedule 4;]
- “share option” means a right to acquire shares in a company;
- “shares” includes stock.
- (5) Other expressions used in the CSOP code and contained in the index at the end of Schedule 4 have the meaning indicated by the index.

Textual Amendments

- F2** Word in s. 521 heading omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 160\(2\), 204](#) (with [Sch. 8 paras. 205-215](#))
- F3** S. 521(1)(a) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 160\(3\)\(a\)](#), 204 (with [Sch. 8 paras. 205-215](#))
- F4** Words in s. 521(1)(b) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 160\(3\)\(b\)](#), 204 (with [Sch. 8 paras. 205-215](#))
- F5** S. 521(2) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 160\(4\)](#), 204 (with [Sch. 8 paras. 205-215](#))
- F6** Words in s. 521(3)(c) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 160\(5\)](#), 204 (with [Sch. 8 paras. 205-215](#))
- F7** Words in s. 521(4) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 160\(6\)\(a\)](#), 204 (with [Sch. 8 paras. 205-215](#))
- F8** Words in s. 521(4) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 160\(6\)\(b\)](#), 204 (with [Sch. 8 paras. 205-215](#))

522 Share options to which this Chapter applies

- (1) This Chapter applies to a share option granted to an individual—
- (a) in accordance with the provisions of [^{F9}a Schedule 4] CSOP scheme, and
 - (b) by reason of the individual’s office or employment as a director or employee of a company.
- (2) The individual may be a director or employee of the company whose shares are the subject of the share option, or of some other company.

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Textual Amendments

- F9** Words in s. 522(1)(a) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 161, 204](#) (with [Sch. 8 paras. 205-215](#))

Tax advantages

^{F10}523 No charge in respect of receipt of option

.....

Textual Amendments

- F10** S. 523 repealed (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 32\(1\)\(2\)](#), [Sch. 43 Pt. 3\(4\)](#); [S.I. 2003/1997, art. 2](#)

524 No charge in respect of receipt of option

- (1) No liability to income tax arises in respect of the exercise of the share option if—
- (a) the individual exercises it in accordance with the provisions of the CSOP scheme at a time when the scheme is [^{F11}a Schedule 4 CSOP scheme], ^{F12}...
 - ^{F13}(b) Condition A or B is met][^{F14}and
 - (c) the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of any arrangements under which the option was granted or is exercised.]

[^{F15}(2) Condition A is that the option is exercised—

- (a) on or after the third anniversary of the date on which it was granted, but
- (b) not later than the tenth anniversary of that date.

(2A) Condition B is that the option—

- (a) is exercised before the third anniversary of the date on which it was granted, and
- (b) is so exercised by virtue of a provision included in the scheme under paragraph 24 of Schedule 4 (exercise of options after ceasing to be director or employee) in circumstances in which subsection (2B) applies.

(2B) This subsection applies if the individual exercising the option—

- ^{F16}(a) has ceased to be in qualifying employment because of—
 - (i) injury, disability, redundancy or retirement,
 - (ii) a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 2006, or
 - (iii) in the case of a group scheme where the qualifying employment is as a director or employee of a constituent company, that company ceasing to be controlled by the scheme organiser, and]
- (b) exercises the option within 6 months of the day on which he ceases to be such a director or employee.

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- [^{F17}(2BA) For the purposes of subsection (2B) an individual is in “qualifying employment” if the individual is a full-time director or qualifying employee (as defined in paragraph 8(2) of Schedule 4) of—
- (a) the scheme organiser, or
 - (b) in the case of a group scheme, a constituent company.]
- (2C) In subsection [^{F18}(2B)(a)(i)] —
- “redundancy” means redundancy within the meaning of ERA 1996 or ER(NI)O 1996,
^{F19} ...]
- [^{F20}(2D) Subsection (2B)(a)(iii) does not cover a case where the constituent company was controlled by the scheme organiser by virtue of paragraph 34 of Schedule 4 (jointly owned companies).
- (2E) In relation to any shares acquired by the exercise of the share option, no liability to income tax arises in respect of its exercise if—
- (a) the individual exercises the option before the third anniversary of the date on which the option was granted at a time when the CSOP scheme is [^{F21}a Schedule 4 CSOP scheme],
 - (b) the option is exercised by virtue of a provision included in the scheme under paragraph 25A of Schedule 4,
 - (c) as a result of, as the case may be—
 - (i) the general offer,
 - (ii) the compromise or arrangement, ^{F22} ...
 [the non-UK company reorganisation arrangement, or]
 - ^{F23}(iiia) (iii) the takeover offer,

the individual receives cash (and no other assets) in exchange for the shares,
 - (d) when the decision to grant the option was taken—
 - (i) the general offer,
 - (ii) the compromise or arrangement, ^{F24} ...
 [the non-UK company reorganisation arrangement, or]
 - ^{F25}(iiia) (iii) the takeover offer,

as the case may be, had not been made,
 - (e) when that decision was taken, no arrangements were in place or under consideration for—
 - (i) the making of a general offer which would fall within subsection (2H),
 - (ii) the making of any compromise or arrangement which would fall within subsection (2L), ^{F26} ...
 [the making of any non-UK company reorganisation arrangement
 - ^{F27}(iiia) (iii) which would fall within subsection (2L), or]
 - (iii) the making of a takeover offer (as defined in section 974 of the Companies Act 2006) which would fall within subsection (2M),
 - (f) if the scheme includes a provision under paragraph 26 of Schedule 4 (“the paragraph 26 provision”), in connection with—
 - (i) the general offer,
 - (ii) the compromise or arrangement, ^{F28} ...

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[the non-UK company reorganisation arrangement, or]
F29(iiia)

(iii) the takeover offer,

as the case may be, no course of action was open to the individual which, had it been followed, would have resulted in the individual making an agreement under the paragraph 26 provision which would have prevented the individual from acquiring the shares by the exercise of the option, and

(g) the avoidance of tax or national insurance contributions is not the main purpose (or one of the main purposes) of any arrangements under which the option was granted or is exercised.

(2F) In subsection (2E)(c)(iii), (d)(iii) and (f)(iii) “the takeover offer” means the takeover offer (as defined in section 974 of the Companies Act 2006) giving rise to the application of sections 979 to 982 or 983 to 985 of that Act.

(2G) In subsection (2E)(e) “arrangements” includes any plan, scheme, agreement or understanding, whether or not legally enforceable.

(2H) A general offer falls within this subsection if it is—

- (a) a general offer to acquire the whole of the issued ordinary share capital of the relevant company which is made on a condition such that, if it is met, the person making the offer will have control of the relevant company, or
- (b) a general offer to acquire all the shares in the relevant company which are of the same class as those acquired by the exercise of the option.

(2I) In subsection (2H)(a) the reference to the issued ordinary share capital of the relevant company does not include any capital already held by the person making the offer or a person connected with that person and in subsection (2H)(b) the reference to the shares in the relevant company does not include any shares already held by the person making the offer or a person connected with that person.

(2J) For the purposes of subsection (2H)(a) and (b) it does not matter if the general offer is made to different shareholders by different means.

(2K) For the purposes of subsection (2H)(a) a person is to be treated as obtaining control of a company if that person and others acting in concert together obtain control of it.

(2L) A compromise or arrangement [F30 or a non-UK company reorganisation arrangement] falls within this subsection if it is applicable to or affects—

- (a) all the ordinary share capital of the relevant company or all the shares of the same class as those acquired by the exercise of the option, or
- (b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employment or directorships or their participation in [F31 a Schedule 4]CSOP scheme.

(2M) A takeover offer falls within this subsection if—

- (a) it relates to the relevant company, and
- (b) where there is more than one class of share in the relevant company, the class or classes to which it relates is or include the class of the shares acquired by the exercise of the option.

(2N) In subsections (2H), (2L) and (2M) “the relevant company” means the company whose shares are acquired by the exercise of the option.]

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F15(3)

F32(4)

(5) Paragraph 25 of Schedule 4 provides for the exercise of an option where the holder has died.

Textual Amendments

- F11** Words in s. 524(1)(a) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(2)**, 204 (with [Sch. 8 paras. 205-215](#))
- F12** Word in s. 524(1)(a) repealed (with effect in accordance with s. 88(11) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(11)**
- F13** S. 524(1)(b) substituted (with effect in accordance with Sch. 21 para. 14(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 21 para. 14(2)**
- F14** S. 524(1)(c) and preceding word inserted (18.6.2004 with effect in accordance with s. 88(11)-(13) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **s. 88(7)**
- F15** S. 524(2)-(2C) substituted for s. 524(2)(3) (with effect in accordance with Sch. 21 para. 14(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 21 para. 14(3)**
- F16** S. 524(2B)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 26(2)**
- F17** S. 524(2BA) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 26(3)**
- F18** Word in s. 524(2C) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 26(4)**
- F19** Words in s. 524(2C) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 14** (with [Sch. 2 para. 17](#))
- F20** S. 524(2D)-(2N) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 26(5)**
- F21** Words in s. 524(2E)(a) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(a)**, 204 (with [Sch. 8 paras. 205-215](#))
- F22** Word in s. 524(2E)(c) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(b)**, 204 (with [Sch. 8 paras. 205-215](#))
- F23** S. 524(2E)(c)(iia) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(b)**, 204 (with [Sch. 8 paras. 205-215](#))
- F24** Word in s. 524(2E)(d) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(b)**, 204 (with [Sch. 8 paras. 205-215](#))
- F25** S. 524(2E)(d)(iia) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(b)**, 204 (with [Sch. 8 paras. 205-215](#))
- F26** Word in s. 524(2E)(e) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(c)**, 204 (with [Sch. 8 paras. 205-215](#))
- F27** S. 524(2E)(e)(iia) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(c)**, 204 (with [Sch. 8 paras. 205-215](#))
- F28** Word in s. 524(2E)(f) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(b)**, 204 (with [Sch. 8 paras. 205-215](#))
- F29** S. 524(2E)(f)(iia) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(3)(b)**, 204 (with [Sch. 8 paras. 205-215](#))
- F30** Words in s. 524(2L) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(4)(a)**, 204 (with [Sch. 8 paras. 205-215](#))
- F31** Words in s. 524(2L)(b) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 162(4)(b)**, 204 (with [Sch. 8 paras. 205-215](#))
- F32** S. 524(4) repealed (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), Sch. 22 para. 33(1)(2), **Sch. 43 Pt. 3(4)**; S.I. 2003/1997, art. 2

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^{F33} 525 No charge in respect of post-acquisition benefits

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Textual Amendments

F33 S. 525 repealed (16.4.2003 with effect in accordance with Sch. 22 para. 34(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 22 para. 34(1), **Sch. 43 Pt. 3(4)**

Tax charge

526 Charge where option granted at a discount

- (1) This section applies if, at the time when the share option is granted to the individual, the aggregate of—
 - (a) the amount or value of any consideration given by the individual for the grant of the option, and
 - (b) the amount payable by the individual, on exercising the option, in order to acquire the maximum number of shares that may be acquired under it,is less than the market value of the same quantity of issued shares of the same class.
- (2) The amount of the difference counts as employment income of the individual for the relevant tax year.
- (3) The “relevant tax year” is the tax year in which the option is granted to the individual.
- (4) [^{F34}Section 480(4) (gain realised on acquisition of securities pursuant to option etc) provides for a deduction] to be made to take account of amounts that count as employment income under this section.

Textual Amendments

F34 Words in s. 526(4) substituted (with effect in accordance with Sch. 22 para. 35(2) of the amending Act, otherwise 1.9.2003) by Finance Act 2003 (c. 14), **Sch. 22 para. 35(1)**; S.I. 2003/1997, art. 2

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