

Status: Point in time view as at 06/04/2003.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Paragraph 34 is up to date with all changes known to be in force on or before 22 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)

SCHEDULES

SCHEDULE 6

CONSEQUENTIAL AMENDMENTS

PART 1

INCOME AND CORPORATION TAXES ACT 1988

34 After section 251 insert—

“Approved share incentive plans

Application of sections 251B and 251C

251A Application of sections 251B and 251C

- (1) Sections 251B and 251C apply for income tax purposes in connection with shares awarded under an approved share incentive plan.
- (2) But those sections do not apply to an individual if, at the time of the award of shares in question—
 - (a) the earnings from the eligible employment are not (or would not be if there were any) general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 apply, or
 - (b) in the case of an award made before 6th April 2003, he was not chargeable to tax under Schedule E in respect of the employment by reference to which he met the requirement of paragraph 14 of Schedule 8 to the Finance Act 2000 (employee share ownership plans: the employment requirement) in relation to the plan.
- (3) For the purposes of subsection (2)—
 - (a) “the eligible employment” means the employment which results in the individual meeting the employment requirement in relation to the plan, and
 - (b) the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 has the same meaning as it has in the employment income Parts of that Act (see sections 14(3) and 20(3) of that Act).

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Treatment of cash dividend retained and then later paid out

251B Treatment of cash dividend retained and then later paid out

- (1) Where a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested), the participant is chargeable to tax on the appropriate amount under Schedule F for the year of assessment in which the dividend is paid over.
- (2) In subsection (1), the “appropriate amount” means the amount of the dividend paid over (except to the extent that it represents a foreign cash dividend).
- (3) For the purposes of determining the tax credit (if any) to which the participant is entitled under section 231, the reference in subsection (1) of that section to the tax credit fraction in force when the distribution is made shall be read as a reference to the fraction in force when the dividend is paid over to the participant.

Charge on dividend shares ceasing to be subject to plan

251C Charge on dividend shares ceasing to be subject to plan

- (1) If dividend shares cease to be subject to the plan before the end of the period of three years beginning with the date on which the shares were acquired on the participant’s behalf, the participant is chargeable to tax on the appropriate amount under Schedule F for the year of assessment in which the shares cease to be subject to the plan.
- (2) In subsection (1) “the appropriate amount” means the amount of the cash dividend applied to acquire the shares on the participant’s behalf (except to the extent that it represents a foreign cash dividend).
- (3) For the purposes of determining the tax credit (if any) to which the participant is entitled under section 231, the reference in subsection (1) of that section to the tax credit fraction in force when the distribution is made shall be read as a reference to the fraction in force when the shares cease to be subject to the plan.
- (4) Where the participant is charged to tax under this section the tax due shall be reduced by the amount or aggregate amount of any tax paid on any capital receipts under section 501 of ITEPA 2003 in respect of those shares.
- (5) In subsection (4) “the tax due” means the amount of tax due after deduction of the tax credit determined under subsection (3).
- (6) This section has effect subject to section 498 of ITEPA 2003 (no charge on shares ceasing to be subject to plan in certain circumstances).

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Interpretation of sections 251A to 251C

251D Interpretation of sections 251A to 251C

- (1) Sections 251A to 251C and this section form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in those sections and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) In sections 251B and 251C “foreign cash dividend” means a cash dividend paid in respect of plan shares in a company not resident in the United Kingdom.”

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