
Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Paragraph 9. (See end of Document for details)

SCHEDULES

SCHEDULE 2

EMPLOYEE SECURITIES: ANTI-AVOIDANCE

Convertible securities

- 9 (1) In section 436(a) (meaning of “convertible securities”), for “immediate or conditional entitlement” substitute “entitlement (whether immediate or deferred and whether conditional or unconditional)”.
- (2) Section 437 (adjustment of acquisition charge) is renumbered as subsection (1) of that section.
- (3) After that subsection insert—
- “(2) Subsection (1) does not apply if the main purpose (or one of the main purposes) of the arrangements under which the right or opportunity to acquire the employment-related securities is made available is the avoidance of tax or national insurance contributions unless the market value of the employment-related securities determined under subsection (1) would be greater than that determined under subsection (3).
- (3) Where subsection (1) does not apply by virtue of subsection (2) the market value of the employment-related securities is to be determined—
- (a) where the securities which are (or an interest in which is) the employment-related securities fall within paragraph (a) of section 436 and the entitlement to convert is not both immediate and unconditional, as if it were,
- (b) where they fall within paragraph (b) of that section, as if the circumstances are such that an entitlement to convert arises immediately, and
- (c) where they fall within paragraph (c) of that section, as if provision were made for their immediate conversion;
- and in each case is to be determined as if they were immediately and fully convertible.
- (4) In subsection (3) “immediately and fully convertible” means convertible immediately after the acquisition of the employment-related securities so as to obtain the maximum gain that would be possible on a conversion at that time (assuming, where the securities into which the securities may be converted were not in existence at that time and it is appropriate to do so, that they were) without giving any consideration for the conversion or incurring any expenses in connection with it.”
- (4) This paragraph has effect in relation to acquisitions on or after 2nd December 2004.

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