



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 4

SAVINGS AND INVESTMENT INCOME

CHAPTER 3

DIVIDENDS ETC. FROM UK RESIDENT COMPANIES [F¹ AND TAX CREDITS ETC. IN RESPECT OF CERTAIN DISTRIBUTIONS]

Shares in approved share incentive plans ("SIPs")

392 SIP shares: introduction

- (1) Sections 393 to 395 contain special rules about the charge under this Chapter in respect of shares awarded to an individual under an approved share incentive plan.
- (2) Those sections only apply if condition A or B was met at the time the shares in question were so awarded.
- (3) Condition A is that—
 - (a) the earnings from the eligible employment were general earnings (see section 7(3) of ITEPA 2003) to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 applied, or
 - (b) if there had been any earnings from it, they would have been such earnings.
- (4) In subsection (3)—
 - (a) “the eligible employment” means the employment resulting in the individual meeting the employment requirement in relation to the plan, and

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Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Shares in approved share incentive plans (“SIPs”). (See end of Document for details)

- (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).
- (5) Condition B is that—
 - (a) the shares were awarded before 6th April 2003, and
 - (b) the individual was liable for tax under Schedule E in respect of the relevant employment.
- (6) In subsection (5) “the relevant employment” means the employment by reference to which the individual met the requirements in paragraph 14 of Schedule 8 to FA 2000 (employee share ownership plans: the employment requirement) in relation to the plan.
- (7) See section 396 for the general interpretation of this section and sections 393 to 395.

393 Later charge where cash dividends retained in SIPs are paid over

- (1) This section applies if 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 etc.).
- (2) Tax charged under this Chapter is charged for the tax year in which the cash dividend is paid over instead of the tax year in which it was originally paid.
- (3) Tax so charged is charged on the amount of the cash dividend paid over.
- (4) The person liable for any tax so charged is the participant.
- (5) For the purposes of determining—
 - (a) whether the participant is entitled to a tax credit under section 397 in respect of a cash dividend so charged, and
 - (b) the amount of that tax credit,
 that section applies as it has effect for the tax year in which the cash dividend is paid over.
- (6) For the purposes of this Chapter, the question whether a cash dividend paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 is a dividend paid by a company that is UK resident is determined by reference to the tax year in which the dividend was originally paid.

394 Distribution when dividend shares cease to be subject to SIP

- (1) This section applies if dividend shares cease to be subject to an approved share incentive plan before the end of the period of 3 years beginning with the date on which the shares were acquired on the participant's behalf.
- (2) For income tax purposes a distribution is treated as made to the participant in the tax year in which the shares cease to be subject to the plan.
- (3) The amount of the distribution treated as made is the amount of the cash dividend applied to acquire the shares on the participant's behalf, so far as it represents a cash dividend paid in respect of plan shares in a UK resident company.
- (4) The person liable for any tax charged on the distribution as a result of this section is the participant.

- (5) For the purposes of determining—
 - (a) whether the participant is entitled to a tax credit under section 397 in respect of a distribution so charged, and
 - (b) if so, the amount of that tax credit,that section applies as it has effect for the tax year in which the shares cease to be subject to the plan.
- (6) But for the purposes of this Chapter, the question whether the distribution under subsection (2) is a distribution by a company that is UK resident is determined by reference to the year in which the company paid the dividend applied to acquire the shares on the participant's behalf.
- (7) For rules identifying shares ceasing to be subject to approved share incentive plans, see section 508 of ITEPA 2003.

395 Reduction in tax due in cases within section 394

- (1) This section applies if—
 - (a) a person is liable to tax as a result of section 394, and
 - (b) any tax is paid on any capital receipts under section 501 of ITEPA 2003 (charge on capital receipts in respect of plan shares) in respect of the shares that cease to be subject to the approved share incentive plan.
- (2) The tax due is to be reduced by an amount equal to the total tax so paid.
- (3) In subsection (2) “the tax due” means the amount of tax due as a result of section 394 after deduction of the tax credit determined in accordance with section 394(5).
- (4) For rules identifying shares ceasing to be subject to approved share incentive plans, see section 508 of ITEPA 2003.

396 Interpretation of sections 392 to 395

- (1) This section and sections 392 to 395 form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in this section or those sections and contained in the index in paragraph 100 of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) In particular—
 - (a) for the meaning of “award of shares” see paragraph 5(1) of that Schedule,
 - (b) for the meaning of “ceasing to be subject to plan” see paragraph 97 of that Schedule,
 - (c) for the meaning of “dividend shares” see paragraph 62(3)(b) of that Schedule,
 - (d) for the meaning of “employment requirement” see paragraph 15(3) of that Schedule,
 - (e) for the meaning of “participant” see paragraph 5(4) of that Schedule,
 - (f) for the meaning of “plan shares” see paragraphs 86 to 88 and 99(1) of that Schedule, and
 - (g) for the meaning of “shares” see paragraphs 87(6) and 99(2) of that Schedule.

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