



Finance Act 2010

2010 CHAPTER 13

PART 2

ANTI-AVOIDANCE AND REVENUE PROTECTION

Securities etc

38 Transactions in securities

Schedule 12 contains provision about transactions in securities.

39 Approved CSOP schemes: eligible shares

- (1) In Part 4 of Schedule 4 to ITEPA 2003 (shares to which approved CSOP schemes can apply), omit paragraph 17(1)(c) (shares in a company which is under the control of a listed company).
- (2) Accordingly, in that Schedule—
 - (a) in paragraph 17—
 - (i) after sub-paragraph (1)(a) insert “ or ”,
 - (ii) omit “or” at the end of sub-paragraph (1)(b), and
 - (iii) omit sub-paragraph (2), and
 - (b) omit paragraph 20(3)(c) (and the “or” before it).
- (3) The amendments made by this section—
 - (a) come into force on 24 September 2010, and
 - (b) have effect in relation to options granted on or after that day.
- (4) If—
 - (a) during the period beginning with 24 March 2010 and ending with 23 September 2010 (“the transitional period”), a share option is granted to an individual in accordance with the provisions of an approved CSOP scheme, and

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- (b) the shares which may be acquired by the exercise of the option are shares in a company which is under the control of a listed company, other than shares of a class listed on a recognised stock exchange,
the share option is to be treated for the purposes of the CSOP code as not having been granted in accordance with the provisions of an approved CSOP scheme.
- (5) An alteration made to a scheme during the transitional period in order to meet the amended paragraph 17 requirement is to be regarded as an alteration made in a key feature of the scheme for the purposes of paragraph 30 of Schedule 4 to ITEPA 2003 (withdrawal of approval).
- (6) Where the amended paragraph 17 requirement is not met in respect of an approved CSOP scheme at the end of the transitional period, the requirement is to be treated for the purposes of paragraph 30(2)(a) of that Schedule (disqualifying events) as ceasing to be met immediately after that time.
- (7) Where, by virtue of subsection (6), approval is withdrawn from a scheme under Part 7 of that Schedule, that withdrawal has effect (from the time determined in accordance with paragraph 30(1) of that Schedule) in relation to options granted on or after 24 September 2010 only.
- (8) In subsections (3) to (7) references to options having been granted include new share options granted under the terms of a provision included in a scheme under paragraph 26 of Schedule 4 to ITEPA 2003 (exchange of shares on company reorganisation); but paragraph 27(5) of that Schedule (new share options treated as granted at same time as old share options) does not apply for the purposes of those subsections.
- (9) In this section—
 “the amended paragraph 17 requirement” means the requirement of paragraph 17 of Schedule 4 to ITEPA 2003 as amended by this section;
 “approved” and “CSOP scheme” have the meaning given by section 521 of that Act;
 “control” and “listed company” have the same meaning as in paragraph 17 of Schedule 4 to that Act.

^{F1}40 Unauthorised unit trusts

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Textual Amendments

- F1** S. 40 omitted (6.4.2014) by virtue of [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **41(f)** (with reg. 32)

41 Index-linked gilt-edged securities

Schedule 14 contains provision about index-linked gilt-edged securities.

42 Approved share incentive plans

- (1) Paragraph 84(1) of Schedule 2 to ITEPA 2003 (approved share incentive plans) is amended as follows.

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- (2) For paragraph (d) substitute—
- “(d) an alteration being made—
 - (i) in the share capital of a company any of whose shares are subject to the plan trust, or
 - (ii) in the rights attaching to any shares of such a company, that materially affects the value of shares that are subject to the plan trust;”.
- (3) In paragraph (e), for “have been awarded to participants” substitute “ are subject to the plan trust ”.
- (4) Section 989 of CTA 2009 (deduction for contribution to plan trust) is amended as follows.
- (5) In subsection (1), after paragraph (a) insert—
- “(aa) the payment is not made pursuant to tax avoidance arrangements;”.
- (6) After subsection (6) insert—
- “(6A) For the purposes of this section the payment mentioned in subsection (1)(a) is made pursuant to tax avoidance arrangements if—
 - (a) it is made pursuant to arrangements entered into by the paying company, and
 - (b) the main purpose, or one of the main purposes, of the paying company in entering into the arrangements was to obtain a deduction or an increased deduction.
 - (6B) In subsection (6A) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.”
- (7) The amendments made by subsections (1) to (3) have effect in relation to events taking place on or after 24 March 2010.
- (8) The amendments made by subsections (4) to (6) have effect in relation to payments made on or after that day.

Changes to legislation:

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