



PRACTICE NOTE

PN 27/89

Date: 5 October 1989

Share Schemes

Introduction

The Manx Income Tax Acts require that an employee is liable to income tax on any income derived from the "annual profits or gains of or in respect of or from any ... employment". Over the years this has been interpreted by the Courts to include not only actual cash payments but also what has become known as "money's worth". This principle extends the charge to encompass benefits capable of being converted into money and also payments made by an employer which meets a pecuniary liability of his employee. An example of the former is share options whilst an example of the latter is an employer meeting an employee's tax liability.

Tax Treatment For 1988/89 And Earlier

There have been several tax cases in the United Kingdom involving the acquisition of share options and/or shares by employees, such acquisitions arising by virtue of their employment. Although not binding on the Isle of Man they do provide guidance as to how the legislation should be interpreted. The basic principles that come out of the cases are:

1. a distribution of shares to employees in consideration of past or future services is an assessable benefit, the amount to be brought into charge being the difference between the market value of the shares and any amount paid either directly or indirectly for the shares;
2. the granting of an option to take up shares is in itself a benefit, the charge being equal to the value of the option at the time it is granted less any amount paid for the option;
3. where there is a direct acquisition of shares with no option period the benefit arises on the date the shares are acquired;
4. where an option is granted the benefit arises when the option is acquired and not the date when the option is exercised.

Changes For 1989/90

The Extra Statutory Concession (ESC) is effective from 6 April 1989 and provides for exemption from income tax on benefits arising on or after that date from the following approved schemes -

- a savings-related scheme; and
- a profit-sharing scheme

The schemes must conform to the United Kingdom legislation on the subject and must be approved by the Assessor. It is the intention to introduce legislation in the next Income Tax Bill to provide a more permanent legal framework. The United Kingdom legislation on which the ESC is founded is very complex and ways will be sought to simplify that approach.

Approved Savings-Related Share Option Schemes

The main requirements enabling a scheme to qualify for such approval are:

1. the shares obtained by option exercise must be paid for out of the proceeds of a special certified contractual savings scheme operated either by the Department for National Savings or the building societies;
2. the option must not normally be exercisable earlier than the time repayments under the savings scheme become due;
3. the maximum permitted monthly contribution to the scheme will be £150; and
4. the price of the shares on option exercise must be not less than 80% of their value on the date the option is granted.

Approved Profit-Sharing Schemes

The legislation relevant to such schemes is fairly complex but the main requirements for approval are:

1. the scheme must be established under a Manx or UK trust with Manx or UK resident trustees;
2. the trustees acquire approved shares and appropriate them to participating employees and directors;
3. the scheme must contain no features that would discourage any eligible person from participating
4. the total initial market value apportioned to any one participant in a year must not exceed £2000 or 10% of the employee's remuneration, whichever is the greater, but subject to an overall limit of £6000;
5. the initial market value is "locked in" and the income tax charge that would normally arise in such cases is determined according to the time the shares are held -

Less than 4 yrs	100% charge
4 yrs or over but less than 5 yrs	75% charge
on or after fifth anniversary	no charge

There is a special reduction for disposals on or after retirement.

Applications For Approval

The following information should be forwarded:-

Savings-related share option schemes

- (a) a copy of the rules of the scheme;
- (b) a copy of the form of contract under which the options will be granted;
- (c) a copy of any documents which will be issued to participants in connection with the scheme; and
- (d) a copy of the Inland Revenue approval, if appropriate.

Profit-sharing schemes

- (a) a copy of the trust deed under which the scheme has been established;
- (b) as for (c) above
- (c) as for (d) above.

All applications should be forwarded to the Technical Officer at the Income Tax Division.