

Explanatory Note

Clause 11: Securities Options

Summary

1. This measure deals with employment related securities options held outside one of the four types of tax-advantaged share schemes. From 6 April 2016 their acquisition or events such as exercise are charged to tax under the rules that deal with securities options, rather than those that deal with earnings.

Details of the clause

2. Subsections (1) and (2) amend section 418 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). Under new sub-section 418(1A), the acquisition of an option, or a chargeable event within the meaning of section 477, (such as the exercise of the option), is now to be charged to tax solely under the rules that deal with securities options, and not under the rules that deal with earnings.
3. Section 227(4) is a list of provisions that confer exemption from liability to income tax in respect of earnings. Subsection (3) provides a minor consequential change by adding sub-section 418(1A) to this list.

Background note

4. This change has been introduced to put beyond doubt the tax treatment in non tax-advantaged schemes of Restricted Stock Units (RSUs). RSUs are arrangements particularly used by companies in the United States to incentivise their employees, including Internationally Mobile Employees (IMEs) over the long term via reward linked to shares and other securities. Under the existing legislation, there is uncertainty regarding whether, on the acquisition of shares under an RSU, the charge to tax is under part of the legislation that deals with income tax on *earnings* or the specific rules that deal with *securities options*. These changes make it clear that the charge to tax will arise under the rules relating to securities options. As a result of these changes the position in relation to National Insurance Contributions (NICs) will also be clarified. Employer's and Employee's NICs liabilities will arise from the RSU award for the period where the IME was subject to UK social security contributions.
5. If you have any questions about this change, or comments on the legislation, please contact Tom Rollinson on 03000 585167 (email: tom.rollinson@hmrc.gsi.gov.uk).