Share Schemes

Budget 2011 made a number of changes to the tax treatment of gains arising from various types of share schemes, including making such gains chargeable to the new Universal Social Charge (USC). This note outlines these changes and provides some general guidance on their likely impact.

Share awards

Before Budget 2011, share awards in various forms were dealt with under the self-assessment system. Most other types of perquisites are dealt with under the PAYE system. From 1 January 2011 share awards will be within the PAYE system and will be treated in the same way as other perquisites. Thus, the net value of any shares is to be treated as notional pay at the time the shares are given to the employee. If the calculated PAYE/PRSI liability exceeds the employee's pay, the employer is obliged to account for and remit the total PAYE/PRSI due on the combined actual and notional pay (in full) with the relevant monthly P30 return. The amount not deducted from the employee's pay or any 'shortfall' not deducted in the particular pay period may be recouped from the employee by collecting it over remaining pay periods in the tax year. The income tax paid on account by the employer at the time the benefit was provided must be recouped from the employee in full by March 31st of the following tax year, otherwise, the employee will be treated as having received a further benefit on the relevant 31st March equivalent to the amount of un-recouped income tax and the employer must operate PAYE/PRSI on this amount.

From 1 January 2011 the USC on the net value of share awards will also have to be deducted and paid by employers through payroll.

Share options

Gains on the exercise of share options will continue to be dealt with under the self-assessment system. Employees are obliged to pay relevant tax on share options (RTSO) within thirty days of exercising an option. USC will be payable on share option gains at the same time as any RTSO is payable. Where share options under a Revenue approved share option scheme are exercised on or after 24 November 2010 (date of publication of National Recovery Plan), any gains on the exercise are no longer exempt from income tax and therefore fall to be treated in the same way as any other share option.

Approved profit sharing schemes

The net value of any share awards under a Revenue approved profit sharing scheme will continue to be exempt from income tax but will be chargeable to USC from 1 January 2011. The chargeable event will be the date of appropriation of the shares by the trustees to the scheme participants. The chargeable value will be the initial market value of the shares (within the meaning of section 510(2) TCA 1997) on that date. The Finance Bill will contain measures to provide for the collection of USC as respects shares appropriated on or after 1 January 2011.

Employee share ownership trusts (ESOTs)

As with approved profit sharing schemes, the charge to USC will arise after the shares have been passed on to the approved profit sharing scheme trustees by the ESOT at the time of appropriation of the shares to the scheme participants.

Savings-related share option schemes (SAYE)

Any gains on options that are exercised at the end of the contractual savings term will continue to be exempt from income tax but will be chargeable to USC at the time of exercise. Gains will be treated as notional pay and dealt with by employers through payroll.

PRSI

PRSI will apply to share awards from 1 January 2011 in the same way as it applies to any other perquisite that is taxed under the PAYE system.

The Revenue approved profit sharing schemes (including schemes associated with ESOTs) and savings-related share option schemes are to be chargeable to PRSI, as are gains on the exercise of share options. Clarification of how and when PRSI will be charged and collected will be provided by the Department of Social Protection.

Further information

Given that various share schemes operate in accordance with their own particular rules and structures it is not possible for Revenue to provide guidance on all aspects of these matters. However, as practical implementation issues arise and are brought to the attention of Revenue this note will be updated as needed.