

Employment-Related Shares & Securities Bulletin

Number 3

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The Employment-Related Shares & Securities Bulletin provides information and updates on developments relating to employment-related securities, including the tax-advantaged employee share schemes.

This bulletin contains articles on:

1. [Updates to the Employment Related Securities Manual](#)
2. [Approved Profit Sharing Plans](#)
3. [NICs elections in electronic form](#)

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The Bulletin will be published as and when sufficient articles or updates are available, or when HMRC has an item that it wishes to bring to your attention quickly. We welcome any suggestions for future articles although we cannot guarantee publication.

A reference to ITEPA is a reference to the Income Tax (Earnings & Pensions) Act 2003 as amended.

1. Updates to the Employment Related Securities Manual

We have updated the Scope of the Legislation and Definitions section of the ERSM ([ERSM20000 to ERSM20540](#)) to reflect legislative changes and to expand on the guidance in certain areas. Other sections of the Manual are due to be updated in the coming months.

2. Approved Profit Sharing Schemes

Approved Profit Sharing Schemes (APSS) were phased out with the introduction of Share Incentive Plans and no new schemes have been approved since 5 April 2001. APSS operated with a trust and although the trustees cannot now make awards carrying tax advantages under those schemes, we understand that some of these trusts are still in existence as they have surplus assets (cash or shares). Even though some trusts may still exist, we are not aware of any APSS arrangements that could give rise to any new PAYE liabilities in the future. We therefore propose to close down any specialist PAYE schemes which were set up specifically to handle APSS, and which appear to no longer be in use. For any schemes which do appear to be in use, we propose to convert them to standard PAYE schemes as we believe the specific arrangements for APSS are no longer needed. These schemes will be subject to Real Time Information (RTI) notification requirements in the normal way. However, we would welcome comments from anyone who thinks that there is a need to retain APSS schemes within specialist PAYE. Please send any comments to Shareschemes@hmrc.gsi.gov.uk

3. NICs elections in electronic form

Under Schedule 1, Paragraph 3B of the Social Security Contributions and Benefits Act 1992 employers and employees can jointly elect to transfer to the employee the secondary Class 1 NIC liability arising on earnings paid in the form of securities options, restricted securities and convertible securities. These are often referred to as NIC Elections. Before an employer can enter into a NIC election with the employee, the form of the election and the arrangements for securing that the liability transferred by the election will be met require prior HMRC approval.

We are often asked whether the NIC election can be made electronically between the employer and the employee. Joint NIC elections can be made electronically as long the employee is able to see the full terms of the election approved by HMRC. Additionally, the joint NIC election made between the employer and the employee must be available for inspection if requested by HMRC.