

Treatment Of Share Options Granted to Employees

Taxpayer Audit & Assessment Department

Interpretations, Rulings & Opinions Committee (IROC)

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This advisory provides explanation as to the treatment of 'Share Option' granted to employees.

FACTS

Where an Option is granted to purchase shares in a Company and that option is exercised in another year of assessment, such option granted must be treated as a benefit in kind and taxed in the year of assessment in which it was granted, as the option granted was something capable of being converted into money (Abbott vs. Philbin). Accordingly following on the ruling in this case the tax is applicable when the option is granted and **not** when it is exercised.

If the option is exercised at the time such option is granted (or in the same year of assessment) and the value of the share option when granted, is less than the market value, only the difference is deemed emoluments and is taxable in the year in which the option was granted (Weight v Salmon).

The difference between the value of the Share Option when granted and Market Price at the time, is deemed emoluments and subject to tax accordingly.

If at the time option is exercised the market value is greater than when the option was granted, such benefit (Capital Gain) accruing, must not be treated as a perquisite or profit from office or employment, but as an advantage accruing to the holder of a legal right (see Abbott vs. Philbin (1960) All ER 763, HL).