

UK Employee Shareholder Status

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The **UK Government** has announced the abolition of the tax benefits of employee shareholder status in today's **Autumn Statement**. The change applies to shares issued on or after 1 December 2016. Since there has to be a minimum 7 clear days notice between the individual employee being advised on the implications of employee shareholder status and the issue of the shares, this effectively means that unless employees have already received that advice, no further issues of ESS shares will be possible from today.

ESS shares have offered significant tax advantages to employees. In particular, gains realised on the sale of ESS shares have been free of capital gains tax, although a cap on this was introduced in the March Budget (which was an indication that the tax breaks might be on borrowed time). In addition, the first £2,000 worth of ESS shares were free of income tax when received by an employee. In exchange for these tax breaks, employees were required to contract out of various employment law rights, including the ability to claim unfair dismissal.

The original intention was for ESS shares to be used to provide employee shares to a wide range of staff. However, their use has generally been limited, not least by the restrictions around how they are issued to employees, so that in practice the benefits have been confined to a few members of senior management, often in the context of a private equity or venture capital transaction. This restricted use of ESS is the justification given by the government for today's announcement.

On the plus side, existing ESS shares are unaffected and, in particular, will continue to benefit from the CGT exemption.

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