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SCHEDULES

SCHEDULE 12

CLOSE COMPANIES

PART II

AMENDMENTS CONNECTED WITH REPEAL OF CHAPTER III OF PART XI OF TAXES ACT 1988

The Income and Corporation Taxes Act 1988 (c. 1)

7. In section 13 of the Taxes Act 1988 (small companies' rate) in subsection (9) for the words “paragraph 17 of Schedule 19” there shall be substituted the words “paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989”.
- 8 (1) In section 168(11) of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of Chapter II of Part V of that Act) for the words from “in a company” to the end of paragraph (b) there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 5 per cent. of the ordinary share capital of the company, or
 - (b) in the case of a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 5 per cent. of the assets which would then be available for distribution among the participators.”;

and at the end there shall be added the words “, and “participator” has the meaning given by section 417(1)”

(2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.

9 (1) In section 187(3) of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of sections 185 to 187 of, and Schedules 9 and 10 to, that Act) for the words from “in a company” to the end of paragraph (b) there shall be substituted—

“in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—

 - (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 25 per cent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company, or

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- (b) where the company is a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 25 per cent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the assets which would then be available for distribution among the participators.”;

and at the end there shall be added the words “and “participator” has the meaning given by section 417(1)”

- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 10 (1) In section 214 of the Taxes Act 1988 (chargeable payments connected with exempt distributions) in subsection (1)(c) for the words from “338(2)(a)” to “Schedule 19” there shall be substituted the words “and 338(2)(a)”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989, except in any case where section 427(4) of the Taxes Act 1988 has effect by virtue of section 103(2) of this Act.
- 11 In section 234 of the Taxes Act 1988 (information relating to distributions) in subsection (9) for the words from “paragraph 17” to “that Schedule” there shall be substituted the words “paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989 for the purposes of the relevant provisions (as defined in paragraph 1 of that Schedule)”.
- 12 (1) Section 360 of the Taxes Act 1988 (loan to buy interest in a close company) shall be amended in accordance with this paragraph.
- (2) In subsection (1)(a) for the words from “satisfying” to “424(4)” there shall be substituted the words “complying with section 13A(2)”.
- (3) In subsections (2)(a) and (3)(a) for the words “satisfy any of the conditions of section 424(4)” there shall be substituted the words “comply with section 13A(2)”.
- (4) This paragraph shall have effect in relation to interest paid on or after the day on which this Act is passed (and, accordingly, the conditions of section 424(4) of the Taxes Act 1988 shall continue to have effect for the purposes of section 360 of that Act in relation to interest paid before that day).
- 13 (1) Section 360A of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of section 360(2)(a)) shall be amended in accordance with this paragraph.
- (2) In subsection (1) for the words from “in a company” onwards there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 5 per cent. of the ordinary share capital of the company, or
- (b) possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 5 per cent. of the assets which would then be available for distribution among the participators.”

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- (3) In subsection (10) after the word “section” there shall be inserted the words ““participator” has the meaning given by section 417(1) and”.
- (4) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 14 (1) In section 576 of the Taxes Act 1988 (which relates to relief for losses on certain unquoted shares) in subsection (5), for paragraph (a) of the definition of “trading company” there shall be substituted—
- “(a) a company whose business consists wholly or mainly of the carrying on of a trade or trades”.
- (2) This paragraph shall have effect in relation to disposals made after 31st March 1989.
- 15 (1) In section 623 of the Taxes Act 1988 (meaning of “relevant earnings” for the purposes of Chapter III of Part XIV of that Act) in subsection (2) for the words “(construed in accordance with paragraph 7 of Schedule 19)” there shall be substituted the words “(that is to say, income which, if the company were an individual, would not be earned income)”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 16 (1) In section 644 of the Taxes Act 1988 (meaning of “relevant earnings” for the purposes of Chapter IV of Part XIV of that Act) in subsection (6) for the definition of “investment income” there shall be substituted—
- ““investment income” means income which, if the company were an individual, would not be earned income.”
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 17 In section 745 of the Taxes Act 1988 (power to obtain information for the purposes of Chapter III of Part XVII of that Act) in subsection (4) for the words from “trading” onwards there shall be substituted the words “companies whose business consists wholly or mainly of the carrying on of a trade or trades.”
- 18 (1) Paragraph 7 of Schedule 8 to the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of a profit-related pay scheme) shall be amended in accordance with this paragraph.
- (2) In sub-paragraph (2) for the words from “in a company” onwards there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 25 per cent. of the ordinary share capital of the company, or
- (b) in the case of a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 25 per cent. of the assets which would then be available for distribution among the participators”.

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- (3) In sub-paragraph (3) the second “and” shall be omitted and after the definition of “control” there shall be inserted “and
“participator” has the meaning given by section 417(1)”.
- (4) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.