

Status: Point in time view as at 06/04/2014.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 488

^{F1} ... SHARE INCENTIVE PLANS

Textual Amendments

- F1** Word in Sch. 2 title omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), Sch. 8 paras. 14, 89 (with Sch. 8 paras. 90-96)

PART 1

INTRODUCTION

[^{F2}Introduction to Schedule 2] share incentive plans (SIPs)

Textual Amendments

- F2** Words in Sch. 2 para. 1 cross-heading substituted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 15, 89 (with Sch. 8 paras. 90-96)

1 [^{F3}(A1) For the purposes of the SIP code a share incentive plan (a “SIP”) is a Schedule 2 SIP if the requirements of Parts 2 to 9 of this Schedule are met in relation to the SIP.]

(3) The requirements consist of general requirements (see Part 2) and requirements as to—

- the eligibility of individuals (see Part 3),
- the types of shares that may be awarded (see Part 4),
- free shares (see Part 5),
- partnership shares (see Part 6),
- matching shares (see Part 7),
- cash dividends and dividend shares (see Part 8), and
- the trustees (see Part 9).

[^{F4}(4) Sub-paragraph (A1) is subject to Part 10 of this Schedule which—

- (a) requires notice of a plan to be given to Her Majesty's Revenue and Customs (“HMRC”) in order for the plan to be a Schedule 2 SIP (see paragraph 81A(1)),
- (b) provides for a plan in relation to which such notice is given to be a Schedule 2 SIP (see paragraph 81A(4)), and
- (c) gives power to HMRC to enquire into a plan and to decide that the plan should not be a Schedule 2 SIP (see paragraphs 81F to 81I).]

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Textual Amendments

- F3** Sch. 2 para. 1(A1) substituted for Sch. 2 para. 1(1)(2) (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 16(2)**, 89 (with Sch. 8 paras. 90-96)
- F4** Sch. 2 para. 1(4) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 16(3)**, 89 (with Sch. 8 paras. 90-96)

SIPs: free shares and partnership shares

- 2 (1) In the SIP code a “share incentive plan” (or “SIP” for short) means (in accordance with section 488(4)) a plan established by a company providing—
- (a) for shares to be appropriated to employees without payment (“free shares”), or
 - (b) for shares to be acquired on behalf of employees out of sums deducted from their salary (“partnership shares”).
- (2) In the SIP code, in relation to a SIP—
- “the company” means the company which established the plan;
 - “plan requirements” means requirements applying to the plan;
 - “the trustees” means the body of persons established under Part 9 to exercise functions in connection with the plan.

Matching shares

- 3 (1) A SIP that provides for partnership shares may also provide for shares to be appropriated without payment to employees in proportion to the partnership shares acquired by them (“matching shares”).
- (2) If a SIP contains provision for all, or more than one, of the following—
- free shares,
 - partnership shares, and
 - matching shares,
- the plan may provide for the company to decide when the provisions relating to each kind of share are to have effect.

Group plans

- 4 (1) A SIP established by a company that controls other companies (a “parent company”) may extend to all or any of those other companies.
- (2) In the SIP code a SIP established by a parent company which so extends is referred to as a “group plan”.
- (3) In relation to a group plan a “constituent company” means—
- (a) the parent company, or
 - (b) any other company to which for the time being the plan is expressed to extend.
- (4) Paragraph 91 deals with jointly owned companies and companies controlled by them.

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Meaning of “award of shares”, “participant” etc.

- 5 (1) For the purposes of the SIP code an “award of shares” is made under a SIP on each occasion when in accordance with the plan—
- (a) free or matching shares are appropriated to employees, or
 - (b) partnership shares are acquired on behalf of employees.
- (2) Accordingly, references to shares awarded to an individual under a SIP are to—
- (a) free or matching shares appropriated to the individual, or
 - (b) partnership shares acquired on the individual’s behalf, under the plan.
- (3) For the purposes of the SIP code an individual participates in an award of free, matching or partnership shares under a SIP if shares included in that award are—
- (a) in the case of an award of free or matching shares, appropriated to the individual, or
 - (b) in the case of an award of partnership shares, acquired on the individual’s behalf.
- (4) In the SIP code, in relation to a SIP, “participant” means an individual to whom shares have been awarded under the plan.

PART 2

GENERAL REQUIREMENTS

General requirements^{F5}...: introduction

Textual Amendments

- F5** Words in Sch. 2 para. 6 cross-heading omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), Sch. 8 paras. 17, 89 (with Sch. 8 paras. 90-96)

- 6 [F6(1)] A SIP must meet the plan requirements contained in—
- paragraph 7 (the purpose of the plan),
 - paragraph 8 (all-employee nature of plan),
 - paragraph 9 (participation on same terms),
 - paragraph 10 (no preferential treatment for directors and senior employees),
 - paragraph 11 (no further conditions), and
 - paragraph 12 (no loan arrangements).

- [F7(2) The requirements of this Part are also to be taken to include the requirements of paragraphs 89 and 90 (plan termination notices etc).]

Textual Amendments

- F6** Sch. 2 para. 6 renumbered as Sch. 2 para. 6(1) (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 18(1), 89 (with Sch. 8 paras. 90-96)
- F7** Sch. 2 para. 6(2) inserted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 18(2), 89 (with Sch. 8 paras. 90-96)

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The purpose of the plan

7 (1) The purpose of the plan must be to provide^[F8], in accordance with this Schedule,] benefits to employees in the ^[F9]form] of shares in a company which give them a continuing stake in that company.

^[F10](1A) The plan must not provide benefits to employees otherwise than in accordance with this Schedule.

(1B) For example, the plan must not provide cash to employees as an alternative to shares.

(1C) Sub-paragraph (1A) does not prohibit an employee receiving a benefit from a company as a result of any shares in that company being held on the employee's behalf under the plan where the employee would have received the same benefit from the company had the shares been acquired by the employee otherwise than by virtue of the plan.]

^{F11}(2)

Textual Amendments

F8 Words in Sch. 2 para. 7(1) inserted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 19(2)(a), 89 (with Sch. 8 paras. 90-96)

F9 Word in Sch. 2 para. 7(1) substituted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 19(2)(b), 89 (with Sch. 8 paras. 90-96)

F10 Sch. 2 para. 7(1A)-(1C) inserted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 19(3), 89 (with Sch. 8 paras. 90-96)

F11 Sch. 2 para. 7(2) omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), Sch. 8 paras. 19(4), 89 (with Sch. 8 paras. 90-96)

All-employee nature of plan

8 (1) The plan must provide that every employee who—
(a) meets the requirements of Part 3 of this Schedule (eligibility of individuals) in relation to an award of shares under the plan, and
(b) is a UK resident taxpayer,
is eligible to participate in the award, and is invited to do so.

^[F12](2) An employee is a UK resident taxpayer if—
(a) the employee's earnings from the employment by reference to which the employee meets the employment requirement are (or would be if there were any) general earnings to which section 15 applies (earnings for year when employee UK resident) ^{F13}...

^{F13}(b)

(3) The plan] must not contain any feature which has or is likely to have the effect of discouraging any description of employees within sub-paragraph (1) from participating in an award of shares under the plan.

(4) Sub-paragraph (3) does not apply to any provision required or authorised by this Schedule.

(5) The plan may provide that an employee who—

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- (a) meets the requirements of Part 3 of this Schedule (eligibility of individuals) in relation to an award of shares under the plan, but
 - (b) is not a UK resident taxpayer (see sub-paragraph (2)),
- is eligible to participate in the award, and may be invited to do so.
- (6) For the purposes of the SIP code an individual is a “qualifying employee”, in relation to an award of shares, if the individual—
- (a) is eligible to participate in it under sub-paragraph (1), or
 - (b) is eligible to participate in it under sub-paragraph (5) and has been invited to do so.

Textual Amendments

- F12** Sch. 2 para. 8(2) substituted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 41](#)
- F13** Sch. 2 para. 8(2)(b) and word omitted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 40\(1\)](#) (with [Sch. 46 para. 40\(2\)](#))

Participation on same terms

- 9 (1) The requirement of this paragraph is that—
- (a) every employee who is invited to participate in an award must be invited to participate on the same terms, and
 - (b) those who do participate must actually do so on the same terms.
- (2) The requirement of this paragraph is infringed by the awarding of free shares by reference to factors other than those mentioned in sub-paragraph (3).
- (3) The requirement of this paragraph is not infringed by the awarding of free shares by reference to—
- (a) an employee’s remuneration,
 - (b) an employee’s length of service, or
 - (c) hours worked by an employee;
- but this is subject to sub-paragraph (4).
- (4) If the awarding of free shares is by reference to more than one of the factors mentioned in sub-paragraph (3), the requirement of this paragraph is infringed unless—
- (a) each factor gives rise to a separate entitlement related to the level of remuneration, length of service or (as the case may be) hours worked, and
 - (b) the total entitlement is the sum of those separate entitlements.
- (5) In the case of an award of free shares which provides for performance allowances, this paragraph has effect as provided in—
- (a) paragraph 41 (performance allowances: method one), or
 - (b) paragraph 42 (performance allowances: method two).
- (6) In sub-paragraph (5) “performance allowances” has the meaning given in paragraph 34(4).
- (7) In the case of an award of partnership shares, the requirement of this paragraph is not infringed by the operation of any percentage limit specified in or under paragraph

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46(2) or (3) (maximum amount of deductions) so far as the application of that limit to employees with different levels of remuneration results in deductions of different amounts or in the award of different numbers of shares.

No preferential treatment for directors and senior employees

- 10 (1) The first requirement of this paragraph is that no feature of the plan has or is likely to have the effect of conferring benefits wholly or mainly—
- (a) on directors, or
 - (b) on employees receiving the higher or highest levels of remuneration.
- (2) The second requirement of this paragraph applies only if the plan is established by a company that is a member of a group.
- (3) The requirement is that the identity of the company (or, if it is a group plan, the constituent companies) must not be such that the plan has or is likely to have the effect of conferring benefits wholly or mainly—
- (a) on employees of companies that are members of the group who receive the higher or highest levels of remuneration, or
 - (b) on directors of such companies.
- (4) The requirements of this paragraph are not infringed by the awarding of free shares in circumstances where (as a result of paragraph 9(3) and (4)) that would not constitute an infringement of the requirements of paragraph 9.

No further conditions

- 11 No conditions apart from those required or authorised by this Schedule may be imposed on an employee's participation in an award of shares under the plan.

No loan arrangements

- 12 (1) The arrangements for the plan must not make any provision, or be associated in any way with any provision made, for loans to some or all of the employees of—
- (a) the company, or
 - (b) in the case of a group plan, of any constituent company.
- (2) The operation of the plan must not be associated in any way with such loans.
- (3) In sub-paragraph (1) “arrangements” includes any scheme, agreement, undertaking or understanding, whether or not legally enforceable.

PART 3

ELIGIBILITY OF INDIVIDUALS

Eligibility of individuals: introduction

- 13 A SIP must meet the plan requirements contained in—
- paragraph 14 (time of eligibility to participate),
 - paragraph 15 (the employment requirement),

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[^{F14}paragraph 18 (requirement not to participate simultaneously in connected SIPs), [^{F15}and] paragraph 18A (successive participation in connected SIPs)]

^{F16}
...

Textual Amendments

- F14** Words in Sch. 2 para. 13 substituted (10.7.2003) by Finance Act 2003 (c. 14), Sch. 21 para. 3
- F15** Word in Sch. 2 para. 13 inserted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by Finance Act 2013 (c. 29), Sch. 2 para. 34(a)
- F16** Words in Sch. 2 para. 13 omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 2 para. 34(b)

Time of eligibility to participate

- 14 (1) The plan must provide that an individual may only participate in an award of shares if the individual is eligible to participate in the award at the appropriate time mentioned below.
- (2) In the case of an award of free shares, the appropriate time is the time when the award is made.
- (3) In the case of an award of partnership shares where the plan does not provide for an accumulation period, the appropriate time is the time of the deduction of the partnership share money relating to the award.
- (4) In the case of an award of partnership shares where the plan does provide for an accumulation period, the appropriate time is the time of the first deduction of partnership share money relating to the award.
- (5) In the case of an award of matching shares where the plan does not provide for an accumulation period, the appropriate time is the time of the deduction of the partnership share money relating to the award of partnership shares to which the matching shares relate.
- (6) In the case of an award of matching shares where the plan does provide for an accumulation period, the appropriate time is the time of the first deduction of partnership share money relating to the award of partnership shares to which the matching shares relate.
- (7) For the purposes of this paragraph an individual is eligible to participate in an award of shares under the plan if and only if the requirements of the plan are met as to—
- (a) employment (see paragraph 15),
 - [^{F17}(b) not participating simultaneously in connected SIPs (see paragraph 18), [^{F18}and]
 - (ba) successive participation in connected SIPs (see paragraph 18A), ^{F19}...]
 - ^{F19}(c)
- (8) In the case of an individual within paragraph 8(5) (all-employee nature of plan: non-UK resident taxpayer), the individual is not eligible to participate in an award of shares under the plan unless (in addition to the requirements mentioned in sub-paragraph (7)) any further eligibility requirements of the plan are met.

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Textual Amendments

- F17** Sch. 2 para. 14(7)(b)(ba) substituted for Sch. 2 para. 14(7)(b) (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 21 para. 4](#)
- F18** Word in Sch. 2 para. 14(7)(b) inserted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 35\(a\)](#)
- F19** Sch. 2 para. 14(7)(c) and word omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 35\(b\)](#)

The employment requirement

- 15 (1) The plan must provide that an individual is not eligible to participate in an award of shares unless the individual meets the requirement in sub-paragraph (2).
- (2) The requirement is that the individual—
- (a) is an employee of—
 - (i) the company, or
 - (ii) in the case of a group plan, a constituent company, and
 - (b) if the plan provides for a qualifying period, has at all times during that period been an employee of a qualifying company.
- (3) In the SIP code “the employment requirement” means the requirement in sub-paragraph (2).
- (4) This paragraph is supplemented—
- (a) as regards qualifying periods, by paragraph 16, and
 - (b) as regards the meaning of “qualifying company”, by paragraph 17.

Qualifying periods

- 16 (1) This paragraph applies if the plan provides for a qualifying period in relation to an award.
- (2) In the case of an award of free shares, the qualifying period must be a period of not more than 18 months ending with the date on which the award is made.
 - (3) In the case of an award of partnership shares where the plan does not provide for an accumulation period, the qualifying period must be a period of not more than 18 months ending with the deduction of partnership share money relating to the award.
 - (4) In the case of an award of partnership shares where the plan does provide for an accumulation period, the qualifying period must be a period of not more than 6 months ending with the start of the accumulation period relating to the award.
 - (5) In the case of an award of matching shares where the plan does not provide for an accumulation period, the qualifying period must be a period of not more than 18 months ending with the deduction of partnership share money relating to the award of partnership shares to which the matching shares relate.
 - (6) In the case of an award of matching shares where the plan does provide for an accumulation period, the qualifying period must be a period of not more than 6 months ending with the start of the accumulation period relating to the award of partnership shares to which the matching shares relate.

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- (7) In relation to an award, the same qualifying period must apply in relation to all employees—
 - (a) of the company, or
 - (a) in the case of a group plan, of the constituent companies.
- (8) The plan may authorise the company to specify different qualifying periods in respect of different awards of shares, but the requirements in sub-paragraphs (2) to (7) apply to periods so specified.

Meaning of “qualifying company”

- 17 (1) For the purposes of paragraph 15(2) “qualifying company” has the meaning given by this paragraph.
- (2) Except in the case of a group plan, “qualifying company” means—
 - (a) the company, or
 - (b) a company that, when the individual was employed by it, was an associated company—
 - (i) of the company, or
 - (ii) of another company qualifying under this paragraph.
- (3) In the case of a group plan, “qualifying company” means—
 - (a) a company that is a constituent company at the end of the qualifying period mentioned in paragraph 15(2),
 - (b) a company that, when the individual was employed by it, was a constituent company, or
 - (c) a company that, when the individual was employed by it, was an associated company of—
 - (i) a company qualifying under paragraph (a) or (b), or
 - (ii) another company qualifying under this paragraph.

Requirement not to participate in other SIPs

- 18 (1) The plan must provide that an individual is not eligible to participate in an award of free, matching or partnership shares under the plan in a tax year if the individual—
 - ^{F20}(a)
 - (b) is at the same time to participate, in an award of shares under another [^{F21}Schedule 2] SIP established by the company or a connected company.
- (2) For the purposes of this paragraph an individual is to be treated as having participated in an award of free shares under a SIP if the individual would have participated in that award but for the individual’s failure to obtain a performance allowance (see paragraph 34).
- (3) In this paragraph “connected company” means— (a) a company which controls or is controlled by the company or which is controlled by a company which also controls the company, or (b) a company which is a member of a consortium owning the company or which is owned in part by the company as a member of a consortium.

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Textual Amendments

- F20** Sch. 2 para. 18(1)(a) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 21 para. 5](#), [Sch. 43 Pt. 3\(3\)](#)
- F21** Words in Sch. 2 para. 18(1) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 20](#), 89 (with [Sch. 8 paras. 90-96](#))

[^{F22}Participation in more than one connected SIP in a tax year

Textual Amendments

- F22** Sch. 2 para. 18A and cross-heading inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 21 para. 2](#)

18A (1) The plan must provide that, if an individual participates in an award of shares under the plan in a tax year in which he has already participated in an award of shares under one or more other [^{F23}Schedule 2] SIPs established by the company or a connected company—

- (a) paragraph 35 (maximum annual award of free shares),
- (b) paragraph 46 (maximum amount of partnership share money deductions), and (c) paragraph 64 (limit on amount reinvested), apply as if the plan and the other plan or plans were a single plan.

(2) In this paragraph “connected company” has the same meaning as in paragraph 18.]

Textual Amendments

- F23** Words in [Sch. 2 para. 18A\(1\)](#) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 21](#), 89 (with [Sch. 8 paras. 90-96](#))

The “no material interest” requirement

^{F24}19

Textual Amendments

- F24** Sch. 2 paras. 19-24 omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 36](#)

Meaning of “material interest”

^{F24}20

Textual Amendments

- F24** Sch. 2 paras. 19-24 omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 36](#)

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Material interest: options and interests in SIPs

F2421

Textual Amendments

F24 Sch. 2 paras. 19-24 omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 36](#)

Meaning of “associate”

F2422

Textual Amendments

F24 Sch. 2 paras. 19-24 omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 36](#)

Meaning of “associate”: trustees of employee benefit trust

F2423

Textual Amendments

F24 Sch. 2 paras. 19-24 omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 36](#)

Meaning of “associate”: trustees of discretionary trust

F2424

Textual Amendments

F24 Sch. 2 paras. 19-24 omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 36](#)

PART 4

TYPES OF SHARES THAT MAY BE AWARDED

Types of share that may be awarded: introduction

- 25 (1) The requirements of the following paragraphs must be met with respect to any shares that may be awarded under a SIP—
- paragraph 26 (shares must be part of ordinary share capital of certain companies),
 - paragraph 27 (requirement as to listing etc.),
 - paragraph 28 (shares must be fully paid up and not redeemable), [F25and]

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paragraph 29 (prohibited shares)

F26
...

- (2) In this Part of this Schedule “eligible shares” means shares that may be awarded under the plan.

Textual Amendments

- F25** Word in Sch. 2 para. 25(1) inserted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 47\(a\)](#)
- F26** Words in Sch. 2 para. 25(1) omitted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 47\(b\)](#)

Shares must be part of ordinary share capital of certain companies

- 26 Eligible shares must form part of the ordinary share capital of—
- (a) the company,
 - (b) a company which has control of the company, or
 - (c) a company which either is, or has control of, a company which is a member of a consortium owning either the company or a company having control of the company.

Requirement as to listing etc.

- 27 (1) Eligible shares must be—
- (a) shares of a class listed on a recognised stock exchange,
 - (b) shares in a company which is not under the control of another company, or
 - (c) shares in a company which is under the control of a listed company.
- (2) A “listed company” is a company whose shares are listed on a recognised stock exchange, other than—
- (a) a close company, or
 - (b) a company that would be a close company if resident in the United Kingdom.

Shares must be fully paid up and not redeemable

- 28 (1) Eligible shares must be—
- (a) fully paid up, and
 - (b) not redeemable.
- (2) For the purposes of sub-paragraph (1)(a) shares are not to be regarded as fully paid up if there is an undertaking to pay cash at a future date to the company whose shares they are.
- (3) For the purposes of sub-paragraph (1)(b) “redeemable” shares include shares that may become redeemable at a future date.
- (4) Sub-paragraph (1)(b) does not apply to shares in a registered industrial and provident society which is a co-operative society.
- (5) In sub-paragraph (4)—

Status: Point in time view as at 06/04/2014.

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“registered industrial and provident society” means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 (c. 12) or the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)), and

“co-operative society” has the same meaning as in section 1 of the 1965 Act or, as the case may be, the 1969 Act.

Prohibited shares

- 29 (1) Eligible shares must not be shares in—
- (a) a service company, or
 - (b) a company that—
 - (i) has control of a service company, and
 - (ii) is under the control of a person or persons who fall within sub-paragraph (2)(b)(i) or (ii) as it applies to a service company.
- (2) For the purposes of this paragraph a company is a “service company” if—
- (a) the business carried on by it consists substantially in the provision of the services of persons employed by it, and
 - (b) the majority of those services are provided to—
 - (i) a person who has control of the company,
 - (ii) two or more persons who together have control of the company, or
 - (iii) a company associated with the company.
- (3) For the purposes of sub-paragraph (2)(b)(iii) a company is associated with another company if both companies are under the control of the same person or persons.
- (4) For the purposes of sub-paragraphs (1) to (3)—
- (a) a partnership is to be treated as a single person; and
 - (b) where a partner (alone or together with others) has control of a company, the partnership is to be treated as having (in the same way) control of that company.
- (5) For the purposes of this paragraph the question whether a person controls a company is to be determined in accordance with [F27sections 450 and 451 of CTA 2010].

Textual Amendments

F27 Words in Sch. 2 para. 29(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 396(3)** (with Sch. 2)

Only certain kinds of restriction allowed

F28 30

Textual Amendments

F28 Sch. 2 paras. 30-33 omitted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 2 para. 48**

Status: Point in time view as at 06/04/2014.

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Permitted restrictions: voting rights

F28 31

Textual Amendments

F28 Sch. 2 paras. 30-33 omitted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 48](#)

Permitted restrictions: provision for forfeiture

F28 32

Textual Amendments

F28 Sch. 2 paras. 30-33 omitted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 48](#)

Permitted restrictions: pre-emption conditions

F28 33

Textual Amendments

F28 Sch. 2 paras. 30-33 omitted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 48](#)

PART 5

FREE SHARES

Free shares: introduction

- 34 (1) If a SIP provides for free shares, it must meet the plan requirements contained in—
paragraph 35 (maximum annual award), and
paragraph 36 (the holding period).
- (2) If a SIP provides for free shares and for performance allowances, the requirements of the following paragraphs also apply—
paragraph 38 (performance allowances: general application),
paragraph 39 (performance allowances: targets and measures),
paragraph 40 (performance allowances: information to be given to employees),
and
either paragraph 41 or 42 (performance allowances: methods of awarding shares).
- (3) The plan must meet any plan requirements contained in those paragraphs.

Status: Point in time view as at 06/04/2014.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) For the purpose of the SIP code a plan provides for performance allowances if it provides for—
- (a) whether or not free shares will be awarded to an individual, or
 - (b) the number or value of free shares awarded,
- to be conditional on performance targets being met.

Maximum annual award

- 35 (1) The plan must provide that the initial market value of the free shares awarded to a participant in a tax year is not to exceed [^{F29}£3,600].
- (2) The “initial market value” of shares means their market value on the date on which they are awarded.

^{F30}(3)

^{F30}(4)

Textual Amendments

F29 Word in Sch. 2 para. 35(1) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\), s. 49\(2\)\(4\)](#)

F30 Sch. 2 para. 35(3)(4) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\), Sch. 2 para. 49](#)

The holding period

- 36 (1) The plan must require the company in respect of each award of free shares to specify a period (“the holding period”) during which a participant is bound by contract with the company—
- (a) to permit the free shares awarded to the participant to remain in the hands of the trustees, and
 - (b) not to assign, charge or otherwise dispose of the beneficial interest in the shares.
- (2) The holding period—
- (a) must be a period of at least 3 years but not more than 5 years, beginning with the date on which the shares in question are awarded to the participant, and
 - (b) must be the same for all shares in the same award.
- (3) The plan—
- (a) may authorise the company to specify different holding periods from time to time, but
 - (b) must prevent the company from increasing the holding period specified in respect of free shares that have been awarded under the plan.
- (4) The participant’s obligations with respect to the holding period are subject to—
- (a) paragraph 37 (power to authorise trustees to accept general offers etc.),
 - (b) paragraph 79 (meeting by trustees of PAYE obligations), and
 - (c) paragraph 90(5) (termination of plan: early removal of shares with participant’s consent).

Status: Point in time view as at 06/04/2014.

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- (5) If at any time in the holding period the participant ceases to be in relevant employment, the participant's obligations with respect to that period come to an end.

Holding period: power of participant to direct trustees to accept general offers etc.

- 37 (1) A participant may direct the trustees to do any of the following during the holding period.
- (2) The participant may direct the trustees to accept an offer for any of the participant's free shares ("the original shares") if the acceptance or agreement will result in a new holding being equated with the original shares for the purposes of capital gains tax.
- (3) The participant may direct the trustees to agree to a transaction affecting the participant's free shares, or such of them as are of a particular class, if the transaction would be entered into as a result of a compromise, arrangement or scheme applicable to or affecting—
- (a) all the ordinary share capital of the company or, as the case may be, all the shares of the class in question, or
- (b) all the shares, or all the shares of the class in question, which are held by a class of shareholders identified otherwise than by reference to their employment or their participation in ^{F31}a Schedule 2] SIP.
- (4) The participant may direct the trustees to accept an offer for the participant's free shares of—
- (a) cash, with or without other assets, or
- (b) a qualifying corporate bond (whether alone or with other assets or cash or both),
- if the offer forms part of a general offer falling within sub-paragraph (5).
- (5) A general offer falls within this sub-paragraph if—
- (a) it is made to holders of shares of the same class as the participant's or to holders of shares in the same company, and
- (b) it is made in the first instance on a condition such that if it is satisfied the person making the offer will have control of that company.
- (6) In sub-paragraph (5) "control" has the meaning given by ^{F32}sections 450 and 451 of CTA 2010].
- ^{F33}(7) For the purposes of sub-paragraph (5) it does not matter if the general offer is made to different shareholders by different means.
- (8) If in the case of a takeover offer (as defined in section 974 of the Companies Act 2006) there arises a right under section 983 of that Act to require the offeror to acquire the participant's free shares, or such of them as are of a particular class, the participant may direct the trustees to exercise that right.]

Textual Amendments

F31 Words in Sch. 2 para. 37(3)(b) substituted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 22, 89 (with Sch. 8 paras. 90-96)

F32 Words in Sch. 2 para. 37(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 396(4) (with Sch. 2)

Status: Point in time view as at 06/04/2014.

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F33 Sch. 2 para. 37(7)(8) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 20\(1\)](#) (with [Sch. 2 para. 20\(2\)](#))

Performance allowances: general application

- 38 A plan that provides for performance allowances in relation to an award must make provision for such allowances for all qualifying employees in relation to that award.

Performance allowances: targets and measures

- 39 (1) A plan that provides for performance allowances must comply with the following requirements with respect to performance targets and performance measures.
- (2) The performance targets must be set for performance units comprising one or more employees.
- (3) The performance measures used must—
- (a) be based on business results or other objective criteria, and
 - (b) be fair and objective measures of the performance of the units to which they are or may be applied.
- (4) For the purposes of an award of free shares under the plan an employee must not be a member of more than one performance unit.

Performance allowances: information to be given to employees

- 40 (1) A plan that provides for performance allowances in relation to an award of shares must require the company—
- (a) to notify each qualifying employee who has accepted an invitation to participate in the award of the performance targets and measures which, under the plan, will be used to determine the number or value of free shares awarded to the employee, and
 - (b) to notify all qualifying employees—
 - (i) of the company, or
 - (ii) in the case of a group plan, of any constituent company,in general terms, of the performance measures to be used to determine the number or value of free shares to be awarded to each employee participating in the award.
- (2) The notices must be given as soon as reasonably practicable.
- (3) The company may exclude from the notice mentioned in sub-paragraph (1)(b) any information whose disclosure the company reasonably considers would prejudice commercial confidentiality.

Performance allowances: method one

- 41 (1) The requirements of this paragraph are those contained in sub-paragraph (2).
- (2) In the case of an award in relation to which the plan provides for performance allowances—

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- (a) at least 20% of the shares in the award must be awarded without reference to performance in accordance with the requirement of paragraph 9 (participation on same terms),
 - (b) the remaining shares must be awarded by reference to performance, and
 - (c) the highest number of shares within paragraph (b) awarded to an individual must not be more than four times the highest number of shares within paragraph (a) awarded to an individual.
- (3) In determining for the purposes of sub-paragraph (2)(a) whether the requirement of paragraph 9 is met, the shares to which sub-paragraph (2)(a) applies are to be treated as a separate award of free shares.
- (4) If the plan meets the requirements of this paragraph, the requirement of paragraph 9 does not apply to any provision of the plan relating to the awarding of shares within sub-paragraph (2)(b).
- (5) If free shares of different classes are awarded, the requirements of this paragraph apply separately in relation to each class.

Performance allowances: method two

- 42 (1) The requirements of this paragraph are those contained in sub-paragraphs (2) and (3).
- (2) In the case of an award in relation to which the plan provides for performance allowances—
- (a) some or all of the shares in the award must be awarded by reference to performance, and
 - (b) the awarding of the shares to qualifying employees who are members of the same performance unit must meet the requirement of paragraph 9 (participation on same terms).
- (3) The performance targets set in connection with such an award must be consistent targets (see sub-paragraph (6)).
- (4) In determining for the purposes of sub-paragraph (2)(b) whether the requirement of paragraph 9 is met, the free shares awarded in respect of each performance unit are to be treated as a separate award of free shares.
- (5) If this method is used, nothing in paragraph 9 requires the awarding of shares to members of different performance units to be on the same terms.
- (6) In sub-paragraph (3) “consistent targets” means targets which, at the time when they are set in accordance with the plan, can reasonably be viewed as being comparable in terms of the likelihood of their being met by the performance units to which they apply.

PART 6

PARTNERSHIP SHARES

Partnership shares: introduction

- 43 (1) If a SIP provides for partnership shares, the following paragraphs apply—

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paragraph 44 (partnership share agreements),
paragraph 45 (deductions from salary),
paragraph 46 (maximum amount of deductions),
paragraph 47 (minimum amount of deductions),
paragraph 48 (notice of possible effect of deductions on benefit entitlement),
paragraph 49 (partnership share money held for employee),
paragraph 50 (application of money deducted where no accumulation periods),
paragraph 51 (accumulation periods),
paragraph 52 (application of money deducted in accumulation period),
paragraph 53 (restriction on number of shares awarded),
paragraph 54 (stopping and re-starting deductions),
paragraph 55 (withdrawal from partnership share agreement),
paragraph 56 (repayment of partnership share money on withdrawal of approval or termination), and
paragraph 57 (access to partnership shares).

(2) The plan must meet any plan requirements contained in those paragraphs.

[^{F34}(2A) The plan must provide that partnership shares are not to be subject to any provision for forfeiture.]

[^{F35}(2B) Partnership shares may (notwithstanding sub-paragraph (2A) if relevant) be subject to provision requiring partnership shares acquired on behalf of an employee to be offered for sale but only if the requirement of sub-paragraph (2C) is met.

(2C) The consideration at which the shares are required to be offered for sale must be at least equal to—

- (a) the amount of partnership share money applied in acquiring the shares on behalf of the employee, or
- (b) if lower, the market value of the shares at the time they are offered for sale.]

(3) References in the SIP code to the trustees acquiring partnership shares on behalf of an employee include their appropriating to an employee shares already held by them.

(4) In the SIP code references to an employee’s “salary” are to be read as follows—

- (a) in the case of an individual within the scope of the charge to tax under Part 2 of this Act, they are to be read as references to such of the earnings of the eligible employment—
 - (i) as are liable to be paid under deduction of tax under PAYE regulations, after deducting any amounts included by virtue of the benefits code, or
 - (ii) as would be liable to be so paid apart from the SIP code;
- (b) in the case of an individual not within the scope of the charge to tax under Part 2 of this Act, they are to be read as references to such of the earnings of the eligible employment as would have fallen within sub-paragraph (i) or (ii) of paragraph (a) if the individual had been within the scope of that charge to tax.

(5) In sub-paragraph (4) “the eligible employment” means the employment by reference to which the employee is eligible to participate in the plan.

Status: Point in time view as at 06/04/2014.

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Textual Amendments

- F34** Sch. 2 para. 43(2A) inserted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 2 para. 50**
- F35** Sch. 2 para. 43(2B)(2C) inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 23, 89** (with Sch. 8 paras. 90-96)

Partnership share agreements

- 44 (1) The plan must provide for qualifying employees to enter into agreements with the company (“company A”) under which—
- (a) the employee authorises the employer company to deduct part of the employee’s salary for the purchase of partnership shares, and
 - (b) company A undertakes to arrange for partnership shares to be awarded to the employee in accordance with the plan.
- (2) Such agreements are referred to in the SIP code as “partnership share agreements”.
- (3) In sub-paragraph (1) “the employer company” means the company by reference to which the employee meets the employment requirement in relation to the plan.

Deductions from salary

- 45 (1) The plan must provide for a partnership share agreement to be given effect by deductions from the employee’s salary.
- (2) Amounts so deducted are referred to in the SIP code as “partnership share money”.
- (3) The partnership share agreement must specify—
- (a) what amounts are to be deducted, and
 - (b) at what intervals;
- but this does not prevent the employee and the company agreeing to vary those amounts or intervals.
- (4) For the purposes of sub-paragraph (3)(a) the agreement may specify a percentage of the employee’s salary.
- (5) The plan must require the employer company to calculate the amounts and intervals having regard to paragraph 46 (maximum amount of deductions from salary).
- (6) In sub-paragraph (5) “the employer company” means the company by reference to which the employee meets the employment requirement in relation to the plan.

Maximum amount of deductions

- 46 (1) The amount of partnership share money deducted from an employee’s salary must not exceed [^{F36}£1,800] in any tax year.
- (2) The amount of partnership share money deducted from an employee’s salary [^{F37}for any tax year must not exceed 10% of the employee’s salary for the tax year.]
- (3) The plan may authorise the company to specify lower limits than those specified in sub-paragraphs (1) and (2).

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(4) If it does so, different limits may be specified in relation to different awards of shares.

[^{F38}(4A) A limit lower than that specified in sub-paragraph (2) may be framed—
(a) as a proposition substituting a percentage lower than that so specified, or
(b) as a proposition that a particular description of earnings is not to be regarded as forming part of an employee’s salary for the purposes of that sub-paragraph.]

(5) Any amount deducted in excess of that allowed by sub-paragraph (1) or (2), or any lower limit in the plan, must be paid over to the employee as soon as practicable.

Textual Amendments

- F36** Word in Sch. 2 para. 46(1) substituted (6.4.2014) by Finance Act 2014 (c. 26), s. 49(3)(4)
- F37** Words in Sch. 2 para. 46(2) substituted (with effect in accordance with Sch. 21 para. 7(5) of the amending Act) by Finance Act 2003 (c. 14), Sch. 21 para. 7(3)
- F38** Sch. 2 para. 46(4A) inserted (10.7.2003) by virtue of Finance Act 2003 (c. 14), Sch. 21 para. 7(4)

Minimum amount of deductions

47 (1) The plan may provide that the amount to be deducted under a partnership share agreement [^{F39}on any occasion] must not be less than a minimum amount specified in the plan.

(2) The specified minimum amount must not be greater than £10.

^{F40}(3)

Textual Amendments

- F39** Words in Sch. 2 para. 47 substituted (10.7.2003) by Finance Act 2003 (c. 14), Sch. 21 para. 8(a)
- F40** Sch. 2 para. 47(3) repealed (10.7.2003) by Finance Act 2003 (c. 14), Sch. 21 para. 8(b), Sch. 43 Pt. 3(3)

Notice of possible effect of deductions on benefit entitlement

48 (1) The plan must provide that the company may not enter into a partnership share agreement with an employee unless the agreement contains a notice under this paragraph.

(2) A notice under this paragraph is a notice in a prescribed form containing prescribed information as to the possible effect of deductions on an employee’s entitlement to social security benefits, statutory sick pay and statutory maternity pay.

(3) In this paragraph “prescribed” means prescribed by regulations made by [^{F41}the Commissioners for Her Majesty’s Revenue and Customs].

Textual Amendments

- F41** Words in Act substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 102(2); S.I. 2005/1126, art. 2(2)(h)

Status: Point in time view as at 06/04/2014.

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Partnership share money held for employee

- 49 (1) The plan must provide that partnership share money deducted under a partnership share agreement is—
- (a) paid to the trustees as soon as practicable, and
 - (b) held by them on behalf of the employee until such time as it is applied by them in acquiring partnership shares on the employee's behalf.
- (2) Sub-paragraph (1) is subject to paragraphs 50(5)(b) and 52(6)(b) and (7) (obligations to pay money to the employee).
- (3) The plan must provide for the trustees to keep any money required to be held by them under this paragraph in an account (interest bearing or otherwise) with—
- (a) a person falling within [F42section 991(2)(b) of ITA 2007] (certain institutions permitted to accept deposits),
 - (b) a building society, or
 - (c) a firm falling within [F43section 991(2)(c) of ITA 2007] (EEA firms permitted to accept deposits).
- (4) The plan must provide for the trustees to account to an employee for the interest if the partnership share money held on behalf of the employee is held in an interest bearing account.

Textual Amendments

- F42** Words in Sch. 2 para. 49(3)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 447\(2\)\(a\)](#) (with [Sch. 2](#))
- F43** Words in Sch. 2 para. 49(3)(c) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 447\(2\)\(b\)](#) (with [Sch. 2](#))

Application of money deducted where no accumulation periods

- 50 (1) If the plan does not provide for an accumulation period, it must provide for partnership share money to be applied by the trustees in acquiring partnership shares on behalf of the employee on the acquisition date.
- (2) The number of shares awarded to each employee must be determined in accordance with the market value of the shares on the acquisition date.
- (3) Sub-paragraphs (1) and (2) are subject to paragraph 53 (restriction on number of shares awarded).
- (4) In those sub-paragraphs “the acquisition date” means the date set by the trustees in relation to the award of partnership shares, which must be not later than 30 days after the last date on which the partnership share money to be applied in acquiring the shares was deducted.
- (5) Any surplus partnership share money remaining after the acquisition of shares by the trustees—
- (a) may with the agreement of the employee be carried forward and added to the amount of the next deduction, and
 - (b) in any other case must be paid over to the employee as soon as practicable.

Status: Point in time view as at 06/04/2014.

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Accumulation periods

- 51 (1) The plan may provide for accumulation periods not exceeding 12 months.
- (2) If the plan does so, the following provisions apply.
- (3) The partnership share agreements—
- (a) must specify when each accumulation period begins and ends;
 - (b) may specify that an accumulation period comes to an end on the occurrence of a specified event.
- (4) However—
- (a) the beginning of the first accumulation period must not be later than the date on which the first deduction of partnership share money is made; and
 - (b) the accumulation period which applies in relation to each award of partnership shares must be the same for all individuals entering into the partnership share agreements.
- (5) The plan may also provide that if—
- (a) during an accumulation period, a transaction occurs in relation to any of the shares (“the original holding”) to be acquired under a partnership share agreement which results in a new holding of shares being equated with the original holding for the purposes of capital gains tax, and
 - (b) the employee consents,
- the partnership share agreement is to have effect after the time of the transaction as if it were an agreement for the purchase of the shares comprised in the new holding.

Application of money deducted in accumulation period

- 52 (1) This paragraph applies if the plan provides for one or more accumulation periods.
- (2) The plan must provide for the partnership share money deducted in each accumulation period under a partnership share agreement to be applied by the trustees in acquiring partnership shares on behalf of the employee on the acquisition date.
- [^{F44}(2A) The number of shares awarded to the employee must be determined in accordance with one of sub-paragraphs (3), (3A) and (3B) and the partnership share agreement must specify which one of those sub-paragraphs is to apply for the purposes of the agreement.]
- (3) [^{F45}If the agreement specifies that this sub-paragraph is to apply, the number of shares awarded to the] employee must be determined in accordance with the lower of—
- (a) the market value of the shares at the beginning of the accumulation period, and
 - (b) the market value of the shares on the acquisition date.
- [^{F46}(3A) If the agreement specifies that this sub-paragraph is to apply, the number of shares awarded to the employee must be determined in accordance with the market value of the shares at the beginning of the accumulation period.
- (3B) If the agreement specifies that this sub-paragraph is to apply, the number of shares awarded to the employee must be determined in accordance with the market value of the shares on the acquisition date.]

Status: Point in time view as at 06/04/2014.

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- (4) Sub-paragraphs (2) [^{F47}to (3B)] are subject to sub-paragraphs (7) and (8) and to paragraph 53 (restriction on number of shares awarded).
- (5) In sub-paragraphs (2) [^{F47}to (3B)] “the acquisition date” means the date set by the trustees in relation to the award of partnership shares, which must be not later than 30 days after the end of the accumulation period which applies in relation to the award.
- (6) Any surplus partnership share money remaining after the acquisition of shares by the trustees—
 - (a) may with the agreement of the employee be carried forward to the next accumulation period, and
 - (b) in any other case must be paid over to the employee as soon as practicable.
- (7) The plan must provide that where the employee ceases to be in relevant employment during an accumulation period, any partnership share money deducted in the period is to be paid over to the individual as soon as practicable.
- (8) The partnership share agreement may provide that, where an accumulation period comes to an end on the occurrence of a specified event, the partnership share money deducted in that period must be paid over to the individual as soon as practicable instead of being applied in acquiring shares.

Textual Amendments

- F44** Sch. 2 para. 52(2A) inserted (with effect in accordance with Sch. 2 para. 81 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 79\(2\)](#)
- F45** Words in Sch. 2 para. 52(3) substituted (with effect in accordance with Sch. 2 para. 81 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 79\(3\)](#)
- F46** Sch. 2 para. 52(3A)(3B) inserted (with effect in accordance with Sch. 2 para. 81 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 79\(4\)](#)
- F47** Words in Sch. 2 para. 52(4)(5) substituted (with effect in accordance with Sch. 2 para. 81 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 79\(5\)](#)

Restriction on number of shares awarded

- 53 (1) The plan may authorise the company to specify the maximum number of shares (“the award maximum”) to be included in an award of partnership shares.
- (2) If the plan does so—
- (a) a different number may be specified by the company in relation to different awards, and
 - (b) the following provisions apply to the plan.
- (3) The plan must require partnership share agreements to contain an undertaking by the company to notify the employee of any restriction on the number of shares to be included in an award.
- (4) The plan must require the notice to be given—
- (a) if there is no accumulation period, before the deduction of the partnership share money relating to the award, and
 - (b) if there is an accumulation period, before the beginning of the accumulation period relating to the award.

Status: Point in time view as at 06/04/2014.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) The plan must provide that, where the award maximum in respect of an award of partnership shares is smaller than the number of shares which would otherwise be included in the award, the number of partnership shares acquired on behalf of each employee under paragraph 50(1) or 52(2) must be reduced proportionately.

Stopping and re-starting deductions

- 54 (1) The plan must provide that an employee may at any time give notice to the company to stop deductions under a partnership share agreement.
- (2) The plan must provide that, unless a later date is specified in the notice, the company must, on receiving a notice within sub-paragraph (1), ensure within 30 days after receipt of the notice that no further deductions are made by it under the partnership share agreement.
- (3) The plan must also provide that an employee who has stopped deductions—
- (a) may subsequently give notice to the company to re-start deductions under the agreement, but
 - (b) may not make up deductions that have been missed.
- (4) If the plan makes provision for one or more accumulation periods, it may prevent an employee re-starting deductions more than once in any accumulation period.
- (5) The plan must provide that, unless a later date is specified in the notice, the company must, on receiving a notice within sub-paragraph (3), re-start deductions under the partnership share agreement not later than the re-start date.
- (6) “The re-start date” means the date of the first deduction due under the partnership share agreement more than 30 days after receipt of the notice under sub-paragraph (3).
- (7) In this paragraph “notice” means notice in writing.

Withdrawal from partnership share agreement

- 55 (1) The plan must provide that an employee may at any time give notice to the company of the employee’s withdrawal from a partnership share agreement.
- (2) The plan must provide that, unless a later date is specified in the notice, a notice of withdrawal takes effect 30 days after it is received by the company.
- (3) The plan must provide that, where an employee withdraws from a partnership share agreement, any partnership share money held on behalf of the employee is to be paid over to the employee as soon as practicable.
- (4) In this paragraph “notice” means notice in writing.

Status: Point in time view as at 06/04/2014.

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Repayment of partnership share money on ^{F48}plan ceasing to be a Schedule 2 SIP or termination

Textual Amendments

F48 Words in Sch. 2 para. 56 cross-heading substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 24, 89](#) (with [Sch. 8 paras. 90-96](#))

- 56 (1) The plan must provide that, where the ^{F49}plan is not to be a Schedule 2 SIP by virtue of paragraph 81H or 81I], any partnership share money held on behalf of an employee is to be paid over to the employee.
- (2) The plan must require the payment to be made as soon as practicable after ^{F50}the relevant day].
- ^{F51}(2A) If the plan is not to be a Schedule 2 SIP by virtue of paragraph 81H, in sub-paragraph (2) “the relevant day” means—
- (a) the last day of the period in which notice of an appeal under paragraph 81K(2)(a) may be given, or
 - (b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn.
- (2B) If the plan is not to be a Schedule 2 SIP by virtue of paragraph 81I, in sub-paragraph (2) “the relevant day” means—
- (a) the last day of the period in which notice of an appeal under paragraph 81K(3) may be given, or
 - (b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn.]
- (3) The plan must provide that, where a plan termination notice is issued in respect of the plan (see paragraph 90), any partnership share money held on behalf of an employee is to be paid over to the employee.
- (4) The plan must require the payment to be made as soon as practicable after the plan termination notice is notified to the trustees under paragraph 89(2).

Textual Amendments

F49 Words in Sch. 2 para. 56(1) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 25\(2\)](#), 89 (with [Sch. 8 paras. 90-96](#))

F50 Words in Sch. 2 para. 56(2) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 25\(3\)](#), 89 (with [Sch. 8 paras. 90-96](#))

F51 Sch. 2 para. 56(2A)(2B) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 25\(4\)](#), 89 (with [Sch. 8 paras. 90-96](#))

Access to partnership shares

- 57 (1) The plan must provide that when partnership shares have been awarded to an employee, the employee may at any time withdraw any or all of the partnership shares from the plan.
- (2) If the employee does so, there may be a charge to tax by virtue of section 506 (charge on partnership shares ceasing to be subject to plan).

Status: Point in time view as at 06/04/2014.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART 7

MATCHING SHARES

Matching shares: introduction

- 58 If a SIP provides for matching shares it must meet the plan requirements contained in—
- paragraph 59 (general requirements for matching shares),
 - paragraph 60 (ratio of matching shares to partnership shares), and
 - paragraph 61 (holding period for matching shares).

General requirements for matching shares

- 59 (1) The plan must provide for the matching shares to be—
- (a) shares of the same class and carrying the same rights as the partnership shares to which they relate;
 - (b) awarded on the same day as the partnership shares to which they relate are awarded; and
 - (c) awarded to all employees who participate in the award on exactly the same basis.

^{F52}(2)

Textual Amendments

F52 Sch. 2 para. 59(2) omitted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 2 para. 51**

Ratio of matching shares to partnership shares

- 60 (1) The partnership share agreement must specify—
- (a) the ratio of matching shares to partnership shares for the time being offered by the company, and
 - (b) the circumstances and manner in which the ratio may be changed by the company.
- (2) The ratio must not exceed 2:1 and must be applied by reference to the number of shares.
- (3) A partnership share agreement must provide for the employee to be informed by the company if the ratio offered by the company changes before partnership shares are awarded to the employee under the agreement.

Holding period for matching shares

- 61 Paragraphs 36 and 37 (the holding period and related matters) apply in relation to matching shares as they apply in relation to free shares.

Status: Point in time view as at 06/04/2014.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART 8

CASH DIVIDENDS AND DIVIDEND SHARES

Reinvestment of cash dividends

- 62 (1) A SIP may provide that, where the company so directs, the trustees must apply [^{F53}some or all of the] cash dividends in respect of plan shares held on behalf of—
- (a) all participants, or
 - (b) all participants who elect to reinvest their dividends,
- in acquiring further shares on their behalf.
- [^{F54}(1A) The company's direction must set out—
- (a) the amount of the cash dividends to be applied as mentioned in sub-paragraph (1), or
 - (b) how that amount is to be determined.]
- (2) Sub-paragraph (1) is subject to paragraph 63 (requirements to be met as regards cash dividends).
- (3) In the SIP code—
- (a) the application of cash dividends as mentioned in sub-paragraph (1) is referred to as “reinvestment”; and
 - (b) the further plan shares acquired are referred to as “dividend shares”.
- (4) The company may [^{F55}modify or] revoke a direction requiring the reinvestment of cash dividends.
- (5) References in the SIP code to the trustees acquiring dividend shares on behalf of a participant include their appropriating to a participant shares already held by them.

Textual Amendments

- F53** Words in Sch. 2 para. 62(1) substituted (with effect in accordance with Sch. 2 para. 86 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 83\(2\)](#)
- F54** Sch. 2 para. 62(1A) inserted (with effect in accordance with Sch. 2 para. 86 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 83\(3\)](#)
- F55** Words in Sch. 2 para. 62(4) inserted (with effect in accordance with Sch. 2 para. 86 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 83\(4\)](#)

Requirements to be met as regards cash dividends

- 63 (1) If a SIP makes the provision authorised by paragraph 62(1) (reinvestment of cash dividends), the following paragraphs apply—
- ^{F56} ...
- paragraph 65 (general requirements as to dividend shares),
 - paragraph 66 (acquisition of dividend shares),
 - paragraph 67 (holding period for dividend shares), and
 - paragraph 68 (reinvestment: amounts to be carried forward).
- (2) The plan must meet any plan requirements contained in those paragraphs.

Status: Point in time view as at 06/04/2014.

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- (3) A SIP must in any event meet the plan requirement contained in paragraph 69 (cash dividends not required to be reinvested).

Textual Amendments

F56 Words in Sch. 2 para. 63(1) omitted (with effect in accordance with Sch. 2 para. 89 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 87](#)

Limit on amount reinvested

^{F57}64

Textual Amendments

F57 Sch. 2 para. 64 omitted (with effect in accordance with Sch. 2 para. 89 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 88](#)

General requirements as to dividend shares

- 65^[F58](1) The plan must provide that dividend shares are to be shares—
- (a) which are in the same company and of the same class, and carry the same rights, as the shares in respect of which the dividend is paid, and
 - (b) which are not subject to any provision for forfeiture.
- ^[F59](2) Dividend shares may (notwithstanding sub-paragraph (1)(b) if relevant) be subject to provision requiring dividend shares acquired on behalf of an employee to be offered for sale but only if the requirement of sub-paragraph (3) is met.
- (3) The consideration at which the shares are required to be offered for sale must be at least equal to—
- (a) the amount of the cash dividends applied in acquiring the shares on behalf of the employee, or
 - (b) if lower, the market value of the shares at the time they are offered for sale.]

Textual Amendments

F58 Sch. 2 para. 65 renumbered as Sch. 2 para. 65(1) (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 26\(2\)](#), 89 (with [Sch. 8 paras. 90-96](#))

F59 Sch. 2 para. 65(2)(3) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 26\(3\)](#), 89 (with [Sch. 8 paras. 90-96](#))

Acquisition of dividend shares

- 66 (1) The plan must provide that the trustees must treat participants fairly and equally in exercising their powers in relation to the acquisition of dividend shares.
- (2) The plan must provide for the trustees to acquire dividend shares on behalf of participants on the acquisition date.

Status: Point in time view as at 06/04/2014.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The number of dividend shares acquired on behalf of each participant must be determined in accordance with the market value of the shares on the acquisition date.
- (4) In this paragraph “the acquisition date” means the date set by the trustees for the acquisition of dividend shares and falling not later than 30 days after the dividend is received by them.

Holding period for dividend shares

- 67 Paragraphs 36 and 37 (the holding period and related matters) apply in relation to dividend shares as they apply in relation to free shares, except that the holding period must be 3 years.

Reinvestment: amounts to be carried forward

- 68 ^{F60}(1) This paragraph applies where an amount is not reinvested because it is not sufficient to acquire a share.]
- (2) The amount may be retained by the trustees and carried forward to be added to the amount of the next cash dividend to be reinvested.
 - (3) If so retained, the trustees must hold the amount so as to be separately identifiable for the purposes of sub-paragraphs (4) and (5).
 - (4) An amount retained under this paragraph must be paid over to the participant—
 - ^{F61}(a)
 - (b) if ^{F62}... the participant ceases to be in relevant employment (see paragraph 95), or
 - (c) if ^{F62}... a plan termination notice is issued in respect of the plan (see paragraph 90).
 - (5) An amount required to be paid over to the participant under sub-paragraph (4) must be paid over as soon as practicable.
- ^{F63}(6)

Textual Amendments

- F60** Sch. 2 para. 68(1) substituted (with effect in accordance with Sch. 2 para. 86 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 84**
- F61** Sch. 2 para. 68(4)(a) and word omitted (with effect in accordance with Sch. 2 para. 90(4)(5) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 90(2)(a)**
- F62** Words in Sch. 2 para. 68(4)(b)(c) omitted (with effect in accordance with Sch. 2 para. 90(4)(5) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 90(2)(b)**
- F63** Sch. 2 para. 68(6) omitted (with effect in accordance with Sch. 2 para. 90(4)(5) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 90(3)**

Cash dividends where no requirement to reinvest

- 69 (1) The plan must require any distributable cash dividends in respect of plan shares held on behalf of a participant to be paid over to the participant as soon as practicable.

Status: Point in time view as at 06/04/2014.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) “Distributable cash dividends” means cash dividends [^{F64}so far as they] are not required to be reinvested under the plan.

Textual Amendments

F64 Words in Sch. 2 para. 69(2) substituted (with effect in accordance with Sch. 2 para. 86 of the amending Act) by Finance Act 2013 (c. 29), Sch. 2 para. 85

PART 9

TRUSTEES

Requirements etc. relating to trustees: introduction

- 70 (1) A SIP must meet the plan requirements contained in—
paragraph 71(1) and (2) (establishment of trustees), and
paragraph 79 (meeting by trustees of PAYE obligations).
- (2) The following provisions also relate to the trustees—
paragraph 71(3) to (6) (the trust instrument and classes of trustees)
paragraph 72 (duty to act in accordance with participant’s directions),
paragraph 73 (duty not to dispose of plan shares),
paragraph 74 (duty to make payments to participants),
paragraph 75 (duty to give notice of award of shares etc.),
paragraph 76 (power to borrow),
paragraph 77 (power to raise funds to subscribe for rights issue), [^{F65}and]
^{F66}
...
paragraph 80 (other duties in relation to tax liabilities).

Textual Amendments

F65 Word in Sch. 2 para. 70(2) inserted (with effect in accordance with Sch. 2 para. 93(2) of the amending Act) by Finance Act 2013 (c. 29), Sch. 2 para. 92(a)

F66 Words in Sch. 2 para. 70(2) omitted (with effect in accordance with Sch. 2 para. 93(2) of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 2 para. 92(b)

Establishment of trustees

- 71 (1) The plan must provide for the establishment of a body of trustees consisting of persons resident in the United Kingdom (“the trustees”).
- (2) The plan must provide that the trustees are required—
(a) in the case of free or matching shares, to acquire shares and appropriate them to employees in accordance with the plan,
(b) in the case of partnership shares, to apply partnership share money in acquiring shares on behalf of employees in accordance with the plan, and

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- (c) in the case of dividend shares, to apply cash dividends in acquiring shares on behalf of participants in accordance with the plan.
- (3) The functions of the trustees with respect to shares held by them must be regulated by a trust (“the plan trust”)—
 - (a) which is constituted under the law of a part of the United Kingdom, and
 - (b) the terms of which are embodied in an instrument which complies with the requirements of this Part of this Schedule (“the trust instrument”).
- (4) The trust instrument must not contain any terms which are neither essential nor reasonably incidental to complying with the requirements of this Part of this Schedule.
- (5) The trust instrument may contain terms that—
 - (a) define who is a professional trustee and who is a non-professional trustee;
 - (b) require the trustees to include at least one person who is a professional trustee and at least two who are non-professional trustees;
 - (c) require at least half of the non-professional trustees to have been, before being appointed as trustees, selected in accordance with a specified process of selection;
 - (d) require the trustees so selected to be persons who are employees of the company or, in the case of a group plan, of a participating company.
- (6) The terms mentioned in sub-paragraph (5) are to be regarded as reasonably incidental to complying with the requirements of this Part of this Schedule for the purposes of sub-paragraph (4).

[^{F67}Duty to monitor participants in connected schemes

Textual Amendments

F67 Sch. 2 para. 71A and cross-heading inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 21 para. 6](#)

- 71A The trust instrument must require the trustees to maintain records of participants who have participated in one or more other [^{F68}Schedule 2] SIPs established by the company or a connected company.]

Textual Amendments

F68 Words in [Sch. 2 para. 71A](#) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 27, 89](#) (with [Sch. 8 paras. 90-96](#))

Duty to act in accordance with participant’s directions

- 72 (1) The trust instrument must require the trustees—
- (a) to dispose of a participant’s plan shares, and
 - (b) to deal with any right conferred in respect of any of a participant’s plan shares to be allotted other shares, securities or rights of any description,
- only in accordance with a direction given by or on behalf of the participant.
- (2) Sub-paragraph (1) is subject to—

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- (a) paragraph 73 (duty not to dispose of plan shares), and
 - (b) any provision in the plan made in accordance with paragraph 79 (meeting by trustees of PAYE obligations).
- (3) The plan may provide for participants to give such general directions, to such effect and in such terms, as are specified in the plan.

Duty not to dispose of plan shares

- 73 (1) This paragraph applies to a participant's plan shares that are free, matching or dividend shares.
- (2) The trust instrument must prohibit the trustees from disposing of any of those shares (to the participant or otherwise) at any time during the holding period, unless the participant has at that time ceased to be in relevant employment.
- (3) Sub-paragraph (2) is subject to—
- (a) paragraph 37 (holding period: power to direct trustees to accept general offers etc.),
 - (b) paragraph 77 (power of trustees to raise funds to subscribe for rights issue),
 - (c) paragraph 79 (meeting by trustees of PAYE obligations), and
 - (d) paragraph 90(5) (termination of plan: early removal of shares with participant's consent).

Duty to make payments to participants

- 74 (1) The trust instrument must require the trustees to pay over to a participant as soon as practicable—
- (a) any money received by them in respect of, or by reference to, any of the participant's shares, or
 - (b) any money's worth so received unless it consists of new shares within the meaning of paragraph 87 (company reconstructions).
- (2) Sub-paragraph (1) is subject to—
- (a) paragraphs 62 to 69 (cash dividends and dividend shares),
 - (b) the trustees' obligations under sections 510 to 514 (PAYE: shares ceasing to be subject to plan; capital receipts), and
 - (c) the trustees' PAYE obligations.

Duty to give notice of award of shares etc.

- 75 (1) The trust instrument must make the following provision regarding notices.
- (2) It must provide that, as soon as practicable after any free or matching shares have been awarded to an employee, the trustees must give the employee notice of the award—
- (a) specifying the number and description of those shares,
 - [^{F69}(aa) if the shares are subject to any restriction, giving details of the restriction,]
 - (b) stating their market value on the date on which they were awarded to the employee, and
 - (c) stating the holding period applicable to them.

Status: Point in time view as at 06/04/2014.

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- (3) It must provide that, as soon as practicable after any partnership shares have been awarded to an employee, the trustees must give the employee notice of the award—
- (a) specifying the number and description of those shares,
 - [^{F70}(aa) if the shares are subject to any restriction, giving details of the restriction,]
 - (b) stating the amount of partnership share money applied by the trustees in acquiring the shares on behalf of the employee, and
 - [^{F71}(c) stating the market value in accordance with which the number of shares awarded to the employee was determined.]
- (4) It must provide that, as soon as practicable after any dividend shares have been acquired on behalf of a participant, the trustees must give the participant notice of the acquisition—
- (a) specifying the number and description of those shares,
 - (b) stating their market value on the acquisition date (as defined by paragraph 66(4)),
 - (c) stating the holding period applicable to them, and
 - (d) informing the participant of any amount carried forward under paragraph 68 (reinvestment: amounts to be carried forward).
- (5) It must provide that, where any foreign cash dividend is received in respect of plan shares held on behalf of a participant, the trustees must give the participant notice of the amount of any foreign tax deducted from the dividend before it was paid.
- (6) In sub-paragraph (5) “foreign cash dividend” means a cash dividend paid in respect of plan shares in a company not resident in the United Kingdom.

Textual Amendments

- F69** Sch. 2 para. 75(2)(aa) inserted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 52**
- F70** Sch. 2 para. 75(3)(aa) inserted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 52**
- F71** Sch. 2 para. 75(3)(c) substituted (with effect in accordance with Sch. 2 para. 81 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 80**

Power of trustees to borrow

- 76 The trust instrument may provide that the trustees have power to borrow—
- (a) to acquire shares for the purposes of the plan, and
 - (b) for such other purposes as may be specified in the trust instrument.

Power of trustees to raise funds to subscribe for rights issue

- 77 (1) The trustees may dispose of some of the rights arising under a rights issue in order to be able to obtain sufficient funds to exercise other such rights.
- (2) The power conferred by sub-paragraph (1) is subject to paragraph 72 (duty to act in accordance with participant’s directions).

Status: Point in time view as at 06/04/2014.

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Acquisition by trustees of shares from employee share ownership trust

F7278

Textual Amendments

F72 Sch. 2 para. 78 omitted (with effect in accordance with Sch. 2 para. 93(2) of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 2 para. 93(1)**

Meeting by trustees of PAYE obligations

- 79 (1) The plan must make provision to ensure that, where a PAYE obligation is imposed on the trustees as a result of any of a participant's plan shares ceasing to be subject to the plan, the trustees are able to meet that obligation—
- (a) by disposing of any of those shares, or
 - (b) if there are any remaining plan shares of the participant, by disposing of any of those shares, or
 - (c) by the participant paying to the trustees a sum equal to the amount required to discharge the obligation.
- (2) A “PAYE obligation” includes an obligation under any of sections 510 to 512 (PAYE: shares ceasing to be subject to the plan).
- (3) For the purposes of sub-paragraph (1) any reference to the trustees disposing of shares includes a reference to their acquiring the shares as trustees for the purposes of the trust.
- (4) A disposal of any of the participant's plan shares in accordance with provision made under sub-paragraph (1)(b) may give rise to a charge to tax under—
- section 505 (charge on free or matching shares ceasing to be subject to plan),
 - section 506 (charge on partnership shares ceasing to be subject to plan), or
 - [^{F73}Chapter 3 or 4 of Part 4 of ITTOIA 2005 (dividends etc. from UK or non-UK resident companies etc.) as a result of section 394(2) or 407(2) of that Act (distribution or dividend payment when dividend shares cease to be subject to plan).]

Textual Amendments

F73 Words in Sch. 2 para. 79(4) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 617(3)** (with Sch. 2)

Other duties of trustees in relation to tax liabilities

- 80 (1) The trust instrument must require the trustees to maintain such records as may be necessary for the purposes of—
- (a) their own PAYE obligations, or
 - (b) the PAYE obligations of the employer company so far as they relate to the plan.
- (2) In sub-paragraph (1)—

Status: Point in time view as at 06/04/2014.

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“PAYE obligations”, in relation to the trustees, includes obligations under sections 510 to 514 (PAYE: shares ceasing to be subject to plan and capital receipts);

“the employer company” has the same meaning as in section 513.

(3) The trust instrument must require the trustees, where the participant becomes liable to income tax under—

- (a) this Act, or
- (b) [^{F74}Chapter 3 or 4 of Part 4 of ITTOIA 2005 (dividends etc. from UK or non-UK resident companies etc.)],

by reason of the occurrence of any event, to inform the participant of any facts relevant to determining that liability.

(4) [^{F75}Sections 1105 to 1108 of CTA 2010 (information relating to distributions to be provided by nominee) apply] in relation to—

- (a) the balance of any cash dividend paid over to the participant under paragraph 64(3),
- (b) any amount paid over to a participant under paragraph 68(4) (dividend retained for reinvestment and later paid out), or
- (c) any relevant dividend (see sub-paragraph (5)),

as if it were a payment to which [^{F76}section 1105(1)(b) of that Act] applied (and, in the case of an amount within paragraph (b) above, as if the cash dividend had been paid at the time of the payment to the participant under paragraph 68(4)).

(5) In a case where dividend shares cease to be subject to the plan before the end of the period of 3 years beginning with the date on which they were acquired on a participant’s behalf, the cash dividend applied to acquire dividend shares on the participant’s behalf is a “relevant dividend” for the purposes of sub-paragraph (4)(c).

Textual Amendments

- F74** Words in Sch. 2 para. 80(3)(b) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 617\(4\)](#) (with Sch. 2)
- F75** Words in Sch. 2 para. 80(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 396\(5\)\(a\)](#) (with Sch. 2)
- F76** Words in Sch. 2 para. 80(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 396\(5\)\(b\)](#) (with Sch. 2)

[^{F77}PART 10

NOTIFICATION OF PLANS, ANNUAL RETURNS AND ENQUIRIES

Textual Amendments

- F77** [Sch. 2 Pt. 10](#) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 28, 89](#) (with [Sch. 8 paras. 90-96](#))

Status: Point in time view as at 06/04/2014.

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Notice of SIP to be given to HMRC

- 81A (1) For a SIP to be a Schedule 2 SIP, notice of the SIP must be given to Her Majesty's Revenue and Customs ("HMRC").
- (2) The notice must—
- (a) be given by the company,
 - (b) contain, or be accompanied by, such information as HMRC may require, and
 - (c) contain a declaration within sub-paragraph (3) made by such persons as HMRC may require.
- (3) A declaration within this sub-paragraph is a declaration—
- (a) that the requirements of Parts 2 to 9 of this Schedule are met in relation to the SIP, and
 - (b) if the declaration is made after the first date on which awards of shares are made under the SIP ("the first award date"), that those requirements—
 - (i) were met in relation to those awards of shares, and
 - (ii) have otherwise been met in relation to the SIP at all times on or after the first award date when shares appropriated to, or acquired on behalf of, individuals under the SIP have been held under the SIP.
- (4) If notice is given under this paragraph in relation to a SIP, for the purposes of the SIP code the SIP is to be a Schedule 2 SIP at all times on and after the relevant date (but not before that date).
- (5) But if the notice is given after the initial notification deadline, the SIP is to be a Schedule 2 SIP only from the beginning of the relevant tax year.
- (6) For the purposes of this Part—
- "the initial notification deadline" is 6 July in the tax year following that in which the first award date falls,
 - "the relevant date" is—
 - (a) the date on which the declaration within sub-paragraph (3) is made, or
 - (b) if that declaration is made after the first award date, the first award date, and
 - "the relevant tax year" is—
 - (a) the tax year in which the notice under this paragraph is given, or
 - (b) if that notice is given on or before 6 July in that tax year, the preceding tax year.
- (7) Sub-paragraph (4) is subject to the following paragraphs of this Part.

Annual returns

- 81B (1) This paragraph applies if notice is given in relation to a SIP under paragraph 81A.
- (2) The company must give to HMRC a return for the tax year in which the relevant date falls and for each subsequent tax year (subject to sub-paragraph (9)).
- (3) If paragraph 81A(5) applies in relation to the SIP, in sub-paragraph (2) the reference to the tax year in which the relevant date falls is to be read as a reference to the relevant tax year.
- (4) A return for a tax year must—

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- (a) contain, or be accompanied by, such information as HMRC may require, and
 - (b) be given on or before 6 July in the following tax year.
- (5) The information which may be required under sub-paragraph (4)(a) includes (in particular) information to enable HMRC to determine the liability to tax, including capital gains tax, of—
- (a) any person who has participated in the SIP, or
 - (b) any other person whose liability to tax the operation of the SIP is relevant to.
- (6) If during a tax year an alteration is made in a key feature of—
- (a) the SIP, or
 - (b) the plan trust,
- the return for the tax year must contain a declaration within sub-paragraph (7) made by such persons as HMRC may require.
- (7) A declaration within this sub-paragraph is a declaration that the alteration has not caused the requirements of Parts 2 to 9 of this Schedule not to be met in relation to the SIP.
- (8) For the purposes of sub-paragraph (6) a “key feature” of a SIP or plan trust is a provision of the SIP or plan trust which is necessary in order for the requirements of Parts 2 to 9 of this Schedule to be met in relation to the SIP.
- (9) A return is not required for any tax year following that in which the termination condition is met in relation to the SIP.
- (10) For the purposes of this Part “the termination condition” is met in relation to a SIP when—
- (a) a plan termination notice has been issued in relation to it under paragraph 89, and
 - (b) all the requirements under paragraphs 56(3), 68(4)(c) and 90 have been met by the trustees.
- (11) If the company becomes aware that—
- (a) anything which should have been included in, or should have accompanied, a return for a tax year was not included in, or did not accompany, the return,
 - (b) anything which should not have been included in, or should not have accompanied, a return for a tax year was included in, or accompanied, the return, or
 - (c) any other error or inaccuracy has occurred in relation to a return for a tax year,
- the company must give an amended return correcting the position to HMRC without delay.
- 81C (1) This paragraph applies if the company fails to give a return for a tax year (containing, or accompanied by, all required information and declarations) on or before the date mentioned in paragraph 81B(4)(b) (“the date for delivery”).
- (2) The company is liable for a penalty of £100.
- (3) If the company's failure continues after the end of the period of 3 months beginning with the date for delivery, the company is liable for a further penalty of £300.

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- (4) If the company's failure continues after the end of the period of 6 months beginning with the date for delivery, the company is liable for a further penalty of £300.
- (5) The company is liable for a further penalty under this sub-paragraph if—
 - (a) the company's failure continues after the end of the period of 9 months beginning with the date for delivery,
 - (b) HMRC decide that such a penalty should be payable, and
 - (c) HMRC give notice to the company specifying the period in respect of which the penalty is payable.

(The company may be liable for more than one penalty under this sub-paragraph.)
- (6) The penalty under sub-paragraph (5) is £10 for each day that the failure continues during the period specified in the notice under sub-paragraph (5)(c).
- (7) The period specified in the notice under sub-paragraph (5)(c)—
 - (a) may begin earlier than the date on which the notice is given, but
 - (b) may not begin until after the end of the period mentioned in sub-paragraph (5)(a) or, if relevant, the end of any period specified in any previous notice under sub-paragraph (5)(c) given in relation to the failure.
- (8) Liability for a penalty under this paragraph does not arise if the company satisfies HMRC (or, on an appeal under paragraph 81K, the tribunal) that there is a reasonable excuse for its failure.
- (9) For the purposes of sub-paragraph (8)—
 - (a) an insufficiency of funds is not a reasonable excuse, unless attributable to events outside the company's control,
 - (b) where the company relies on any other person to do anything, that is not a reasonable excuse unless the company took reasonable care to avoid the failure, and
 - (c) where the company had a reasonable excuse for the failure but the excuse ceased, the company is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

Notices and returns to be given electronically etc

- 81D
- (1) A notice under paragraph 81A, and any information accompanying the notice, must be given electronically.
 - (2) A return under paragraph 81B, and any information accompanying the return, must be given electronically.
 - (3) But, if HMRC consider it appropriate to do so, HMRC may allow the company to give a notice or return or any accompanying information in another way; and, if HMRC do so, the notice, return or information must be given in that other way.
 - (4) The Commissioners for Her Majesty's Revenue and Customs—
 - (a) must prescribe how notices, returns and accompanying information are to be given electronically;
 - (b) may make different provision for different cases or circumstances.
- 81E
- (1) This paragraph applies if a return under paragraph 81B, or any information accompanying such a return—

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- (a) is given otherwise than in accordance with paragraph 81D, or
- (b) contains a material inaccuracy—
 - (i) which is careless or deliberate, or
 - (ii) which is not corrected as required by paragraph 81B(11).
- (2) The company is liable for a penalty of an amount decided by HMRC.
- (3) The penalty must not exceed £5,000.
- (4) For the purposes of sub-paragraph (1)(b)(i) an inaccuracy is careless if it is due to a failure by the company to take reasonable care.

Enquiries

- 81F (1) This paragraph applies if notice is given in relation to a SIP under paragraph 81A.
- (2) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so no later than—
- (a) 6 July in the tax year following the tax year in which the initial notification deadline falls, or
 - (b) if the notice under paragraph 81A is given after the initial notification deadline, 6 July in the second tax year following the relevant tax year.
- (3) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so no later than 12 months after the date on which a declaration within paragraph 81B(7) is given to HMRC.
- (4) Sub-paragraph (5) applies if (at any time) HMRC have reasonable grounds for believing that requirements of Parts 2 to 9 of this Schedule—
- (a) are not met in relation to the SIP, or
 - (b) have not been met in relation to the SIP.
- (5) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so.
- (6) Notice may be given, and an enquiry may be conducted, under sub-paragraph (2), (3) or (5) even though the termination condition has been met in relation to the SIP.
- 81G (1) An enquiry under paragraph 81F(2), (3) or (5) is completed when HMRC give the company a notice (a “closure notice”) stating—
- (a) that HMRC have completed the enquiry, and
 - (b) that—
 - (i) paragraph 81H is to apply,
 - (ii) paragraph 81I is to apply, or
 - (iii) neither paragraph 81H nor paragraph 81I is to apply.
- (2) If the company receives notice under paragraph 81F(2), (3) or (5), the company may make an application to the tribunal for a direction requiring a closure notice for the enquiry to be given within a specified period.
- (3) The application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).
- (4) The tribunal must give a direction unless satisfied that HMRC have reasonable grounds for not giving the closure notice within the specified period.

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- 81H (1) This paragraph applies if HMRC decide—
- (a) that requirements of Parts 2 to 9 of this Schedule—
 - (i) are not met in relation to the SIP, or
 - (ii) have not been met in relation to the SIP, and
 - (b) that the situation is, or was, so serious that this paragraph should apply.
- (2) If this paragraph applies—
- (a) the SIP is not to be a Schedule 2 SIP with effect from—
 - (i) such relevant time as is specified in the closure notice, or
 - (ii) if no relevant time is specified, the time of the giving of the closure notice, and
 - (b) the company is liable for a penalty of an amount decided by HMRC.
- (3) Sub-paragraph (2)(a) does not affect the operation of the SIP code in relation to shares appropriated to, or acquired on behalf of, an individual under the SIP before the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).
- (4) In particular, if the SIP was a Schedule 2 SIP when the shares were appropriated to, or acquired on behalf of, the individual, the SIP is to continue to be a Schedule 2 SIP in relation to those shares.
- (5) The penalty under sub-paragraph (2)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—
- (a) the total income tax for which participants in the SIP have not been liable, or will not be liable in the future, and
 - (b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,
- in consequence of the SIP having been a Schedule 2 SIP at any relevant time before the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).
- (6) The liabilities covered by sub-paragraph (5) include liabilities for income tax or contributions which a person has not had, or will not have, in consequence of sub-paragraphs (3) and (4).
- (7) In this paragraph “relevant time” means any time before the giving of the closure notice when requirements of Parts 2 to 9 of this Schedule were not met in relation to the SIP.
- 81I (1) This paragraph applies if HMRC decide—
- (a) that requirements of Parts 2 to 9 of this Schedule—
 - (i) are not met in relation to the SIP, or
 - (ii) have not been met in relation to the SIP, but
 - (b) that the situation is not, or was not, so serious that paragraph 81H should apply.
- (2) If this paragraph applies, the company—
- (a) is liable for a penalty of an amount decided by HMRC, and
 - (b) must, no later than 90 days after the relevant day, secure that the requirements of Parts 2 to 9 of this Schedule are met in relation to the SIP.
- (3) The penalty under sub-paragraph (2)(a) must not exceed £5,000.
- (4) In sub-paragraph (2)(b) “the relevant day” means—

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Changes to legislation: *Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 2 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) the last day of the period in which notice of an appeal under paragraph 81K(2)(b) may be given, or
 - (b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn.
- (5) Sub-paragraph (2)(b) does not apply if the termination condition was met in relation to the SIP before the giving of the closure notice or is met before the end of the 90 day period mentioned in sub-paragraph (2)(b).
- (6) If the company fails to comply with sub-paragraph (2)(b), HMRC may give the company a notice stating that that is the case (a “default notice”).
- (7) If the company is given a default notice—
- (a) the SIP is not to be a Schedule 2 SIP with effect from—
 - (i) such relevant time as is specified in the default notice, or
 - (ii) if no relevant time is specified, the time of the giving of the default notice, and
 - (b) the company is liable for a further penalty of an amount decided by HMRC.
- (8) Sub-paragraph (7)(a) does not affect the operation of the SIP code in relation to shares appropriated to, or acquired on behalf of, an individual under the SIP before the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).
- (9) In particular, if the SIP was a Schedule 2 SIP when the shares were appropriated to, or acquired on behalf of, the individual, the SIP is to continue to be a Schedule 2 SIP in relation to those shares.
- (10) The penalty under sub-paragraph (7)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—
- (a) the total income tax for which participants in the SIP have not been liable, or will not be liable in the future, and
 - (b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future, in consequence of the SIP having been a Schedule 2 SIP at any relevant time before the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).
- (11) The liabilities covered by sub-paragraph (10) include liabilities for income tax or contributions which a person has not had, or will not have, in consequence of sub-paragraphs (8) and (9).
- (12) In this paragraph “relevant time” means any time before the giving of the default notice when requirements of Parts 2 to 9 of this Schedule were not met in relation to the SIP.

Assessment of penalties

- 81J (1) This paragraph applies if the company is liable for a penalty under this Part.
- (2) HMRC must assess the penalty and notify the company of the assessment.
- (3) Subject to sub-paragraphs (4) and (5), the assessment must be made no later than 12 months after the date on which the company becomes liable for the penalty.
- (4) In the case of a penalty under paragraph 81E(1)(b), the assessment must be made no later than—

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- (a) 12 months after the date on which HMRC become aware of the inaccuracy, and
 - (b) 6 years after the date on which the company becomes liable for the penalty.
- (5) In the case of a penalty under paragraph 81H(2)(b) or 81I(2)(a) or (7)(b) where notice of appeal is given under paragraph 81K(2) or (3), the assessment must be made no later than 12 months after the date on which the appeal is determined or withdrawn.
- (6) A penalty payable under this Part must be paid—
- (a) no later than 30 days after the date on which the notice under sub-paragraph (2) is given to the company, or
 - (b) if notice of appeal is given against the penalty under paragraph 81K(1) or (4), no later than 30 days after the date on which the appeal is determined or withdrawn.
- (7) The penalty may be enforced as if it were corporation tax or, if the company is not within the charge to corporation tax, income tax charged in an assessment and due and payable.
- (8) Sections 100 to 103 of TMA 1970 do not apply to a penalty under this Part.

Appeals

- 81K (1) The company may appeal against a decision of HMRC that the company is liable for a penalty under paragraph 81C or 81E.
- (2) The company may appeal against—
- (a) a decision of HMRC mentioned in paragraph 81H(1) or a decision of HMRC to specify, or not to specify, a relevant time in the closure notice;
 - (b) a decision of HMRC mentioned in paragraph 81I(1).
- (3) The company may appeal against a decision of HMRC—
- (a) to give the company a default notice under paragraph 81I;
 - (b) to specify, or not to specify, a relevant time in the default notice.
- (4) The company may appeal against a decision of HMRC as to the amount of a penalty payable by the company under this Part.
- (5) The company may appeal against a decision of an officer of Revenue and Customs to give a direction under section 998 of CTA 2009 (withdrawal of corporation tax deductions in relation to a Schedule 2 SIP).
- (6) Notice of appeal must be given to HMRC no later than 30 days after the date on which—
- (a) in the case of an appeal under sub-paragraph (1) or (4), the notice under paragraph 81J(2) is given to the company;
 - (b) in the case of an appeal under sub-paragraph (2), the closure notice is given;
 - (c) in the case of an appeal under sub-paragraph (3), the default notice is given;
 - (d) in the case of an appeal under sub-paragraph (5), notice of the officer's decision is given to the company.
- (7) On an appeal under sub-paragraph (1), (3)(a) or (5) which is notified to the tribunal, the tribunal may affirm or cancel the decision.

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- (8) On an appeal under sub-paragraph (2) or (3)(b) which is notified to the tribunal, the tribunal may—
- (a) affirm or cancel the decision, or
 - (b) substitute for the decision another decision which HMRC had power to make.
- (9) On an appeal under sub-paragraph (4) which is notified to the tribunal, the tribunal may—
- (a) affirm the amount of the penalty decided, or
 - (b) substitute another amount for that amount.
- (10) Subject to this paragraph and paragraph 81J, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this paragraph as they have effect in relation to an appeal against an assessment to corporation tax or, if the company is not within the charge to corporation tax, income tax.]

PART 11

SUPPLEMENTARY PROVISIONS

Company reconstructions

- 86 (1) In this Part of this Schedule a “company reconstruction” means a transaction to which this paragraph applies.
- (2) This paragraph applies to a transaction which occurs in relation to any of a participant’s plan shares (“the original holding”) and—
- (a) results in a new holding being equated with the original holding for the purposes of capital gains tax, or
 - (b) would have that result but for the fact that what would be the new holding consists of or includes a qualifying corporate bond.
- (3) But where an excluded issue of shares is made—
- (a) that issue of shares does not by itself count as a transaction within sub-paragraph (2); and
 - (b) if made as part of a transaction within that sub-paragraph (that is, as part of a company reconstruction), the shares issued are to be regarded as not forming part of the new holding.
- (4) An “excluded issue of shares” means an issue of shares of any of the following descriptions (in respect of which a charge to income tax arises)—
- (a) redeemable shares or securities issued as mentioned in [F78] paragraph C or D in section 1000(1) of CTA 2010] (distributions);
 - (b) share capital issued in circumstances such that [F79] section 1022(3) of CTA 2010] (bonus issues) applies;
 - (c) share capital to which [F80] section 410 of ITTOIA 2005 (stock dividends) applies that is issued in a case where subsection (2) or (3) of that section applies.]

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Textual Amendments

- F78** Words in Sch. 2 para. 86(4)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 396\(6\)\(a\)](#) (with Sch. 2)
- F79** Words in Sch. 2 para. 86(4)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 396\(6\)\(b\)](#) (with Sch. 2)
- F80** Words in Sch. 2 para. 86(4)(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 396\(6\)\(c\)](#) (with Sch. 2)

Consequences of company reconstructions

- 87 (1) In the SIP code references to a participant's plan shares in relation to a SIP are to be read, after the time of a company reconstruction—
- (a) as referring to the new shares, or
 - (b) as including those shares,
- as the case may be.

This is subject to the following provisions of this paragraph.

- (2) For the purposes of the SIP code—
- (a) a company reconstruction is to be treated as not involving a disposal of the shares comprised in the original holding;
 - (b) new shares are to be treated as having been awarded to the participant on the date on which the corresponding old shares were awarded;
 - (c) the conditions in Part 4 of this Schedule (types of share that may be awarded) are to be treated as fulfilled with respect to any new shares if they were (or were treated as) fulfilled with respect to the corresponding old shares; and
 - (d) the provisions of—
 - (i) sections 489 to 514 (SIPs: income tax advantages and charges under this Act),
 - ^[F81](ii) sections 392 to 395 and 405 to 408 of ITTOIA 2005 (SIPs: special rules for charges under Chapters 3 and 4 of Part 4 of that Act (dividends etc. from UK or non-UK resident companies etc.) and section 770 of that Act (exemption for amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment)),
 - (iii) sections 686B and 686C of ICTA (SIPs: income tax advantages for trustees), and
 - (iv) Part 1 of Schedule 7D to TCGA 1992 (SIPs: capital gains tax),apply in relation to the new shares as they would have applied in relation to the corresponding old shares.
- (3) If the corresponding old shares were dividend shares, the reference in sub-paragraph (2)(b) to the corresponding old shares being awarded is a reference to those shares being acquired on behalf of the participant.
- (4) Sub-paragraphs (1) to (3) are subject to paragraph 88 (treatment of shares acquired under rights issue).
- (5) For the purposes of the SIP code if, as part of a company reconstruction, trustees become entitled to a capital receipt, their entitlement to the capital receipt is to be taken to arise before the new holding comes into being.

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- (6) In the SIP code, in the context of a new holding, “shares” includes securities and rights of any description which form part of the new holding for the purposes of Chapter 2 of Part 4 of TCGA 1992 (reorganisation of share capital etc.).
- (7) In this paragraph—
- (a) “new shares” means shares comprised in the new holding which were issued in respect of, or otherwise represent, shares comprised in the original holding;
 - (b) “the new holding” and “the original holding” mean respectively the new and original holdings mentioned in paragraph 86(2);
 - (c) “corresponding old shares”, in relation to any new shares, means the shares in respect of which the new shares are issued or which the new shares otherwise represent.

Textual Amendments

F81 Sch. 2 para. 87(2)(d)(ii) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 617\(6\)](#) (with Sch. 2)

Treatment of shares acquired under rights issue

- 88 (1) This paragraph applies for the purposes of the SIP code where the trustees exercise rights arising under a rights issue and conferred in respect of a participant’s plan shares.
- (2) In such a case, any shares or securities or rights allotted are to be treated as if they were plan shares—
- (a) identical to the shares in respect of which the rights were conferred, and
 - (b) appropriated to, or acquired on behalf of, the participant under the plan in the same way and at the same time as those shares.
- (3) If, however, either of the conditions set out in sub-paragraph (4) is met, sub-paragraph (5) applies instead.
- (4) The conditions are—
- (a) that the funds used by the trustees to exercise the rights are not provided by the exercise of the trustees' powers under paragraph 77 (trustees' powers to raise funds to subscribe for rights issue);
 - (b) that similar rights are not conferred in respect of all ordinary shares in the company.
- (5) If either of those conditions is met—
- (a) any shares, securities or rights allotted are not plan shares, and
 - (b) sections 127 to 130 of TCGA 1992 (reorganisation of share capital etc.) do not apply in relation to them.

Termination of plan

- 89 (1) The plan may provide for the company to issue a plan termination notice in respect of the plan in circumstances specified in the plan.

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- (2) The plan must provide that, where a plan termination notice is issued, a copy of the notice must be given, without delay, to—
- ^{F82}(a)
 - (b) the trustees,
 - (c) each individual who has plan shares, and
 - (d) each individual who has entered into a partnership share agreement which was in force immediately before the notice was issued.

Textual Amendments

F82 Sch. 2 para. 89(2)(a) omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), Sch. 8 paras. 29, 89 (with Sch. 8 paras. 90-96)

Effect of plan termination notice

- 90 (1) This paragraph applies if the company has issued a plan termination notice under paragraph 89.
- (2) No further shares may be [^{F83}appropriated to, or acquired on behalf of,] individuals under the plan.
- (3) The trustees must remove the plan shares from the plan as soon as practicable after whichever is the later of—
- (a) the end of the notice period, or
 - (b) the first date on which the shares may be removed from the plan without giving rise to a charge to income tax under sections 501 to 507 (SIPs: tax charges) on the participant on whose behalf they are held.
- (4) In sub-paragraph (3) “the notice period” means the period of 3 months beginning with the date on which the requirements imposed by the plan in accordance with paragraph 89(2) are met in respect of the plan termination notice.
- (5) The trustees may remove a participant’s shares from the plan at an earlier date with the participant’s consent.
- (6) Any consent given by the participant before receiving a copy of the plan termination notice is to be disregarded for the purposes of sub-paragraph (5).
- (7) As soon as practicable after the plan termination notice is issued, the trustees must pay any money held on an individual’s behalf to the individual.
- (8) In this paragraph references to the trustees removing the plan shares from the plan are to their doing the following in the case of each participant—
- (a) transferring the shares to the participant on behalf of whom they are held, or to another person, at the participant’s direction, or
 - (b) disposing of the shares and accounting (or holding themselves ready to account) for the proceeds to the participant or to another person at the participant’s direction.
- (9) Where a participant has died, the references in this paragraph to a participant are to the participant’s personal representatives.

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Textual Amendments

F83 Words in Sch. 2 para. 90(2) substituted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 30, 89 (with Sch. 8 paras. 90-96)

Jointly owned companies

- 91 (1) This paragraph applies for the purposes of the provisions of the SIP code relating to group plans.
- (2) Each joint owner of a jointly owned company is to be treated as controlling every company within sub-paragraph (3).
- (3) The companies within this sub-paragraph are—
- the jointly owned company, and
 - any company controlled by that company.
- (4) However, no company within sub-paragraph (3) may be—
- a constituent company in more than one group plan, or
 - a constituent company in a particular group plan if another company within that sub-paragraph is a constituent company in a different group plan.
- (5) In this paragraph a “jointly owned company” means a company—
- of which 50% of the issued share capital is owned by one person and 50% by another, and
 - which is not controlled by any one person.
- (6) This paragraph does not apply for the purposes of paragraph 27(1)(b) (requirement that plan shares are in a company not under another company’s control).

Determination of market value

- 92 (1) For the purposes of the SIP code the “market value” of shares has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act.
- [^{F84}(2) For the purposes of this Schedule the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction.]
- (3) Where the market value of shares on any date has to be determined for the purposes of the SIP code, [^{F85}an officer of Revenue and Customs] and the trustees may agree that it is to be determined by reference—
- to a date or dates, or
 - to an average of the values on a number of dates, stated in the agreement.

Textual Amendments

F84 Sch. 2 para. 92(2) substituted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by Finance Act 2013 (c. 29), Sch. 2 para. 55

F85 Words in Act substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 102(1); S.I. 2005/1126, art. 2(2)(h)

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Modifications etc. (not altering text)

- C1** Sch. 2 para. 92(2) applied by 2005 c. 5, s. 407(3C) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 63\(3\)](#), 89 (with [Sch. 8 paras. 90-96](#)))
- C2** Sch. 2 para. 92(2) applied by 2005 c. 5, s. 394(3C) (as inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 57\(3\)](#), 89 (with [Sch. 8 paras. 90-96](#)))

Power to require information

- 93 ^{F86}(1) An officer of Revenue and Customs may by notice require a person to provide the officer with any information—
- (a) which the officer reasonably requires for the performance of any functions of Her Majesty's Revenue and Customs or an officer of Revenue and Customs under the SIP code, and
 - (b) which the person to whom the notice is addressed has or can reasonably obtain.]
- (2) The power conferred by this paragraph extends, in particular, to—
- (a) information to enable ^{F85}an officer of Revenue and Customs] —
 - ^{F87}(i) to check anything contained in a notice under paragraph 81A or a return under paragraph 81B or to check any information accompanying such a notice or return, or”, and]
 - (ii) to determine the liability to tax, including capital gains tax, of any person who has participated in a plan ^{F88}or any other person whose liability to tax the operation of a plan is relevant to], and
 - (b) information about the administration of a plan and any proposed alteration of the terms of a plan.
- (3) The notice must require the information to be provided within a specified period, which must not end earlier than 3 months after the date when the notice is given.

Textual Amendments

- F85** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F86** Sch. 2 para. 93(1) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 31\(2\)](#), 89 (with [Sch. 8 paras. 90-96](#))
- F87** Sch. 2 para. 93(2)(a)(i) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 31\(3\)\(a\)](#), 89 (with [Sch. 8 paras. 90-96](#))
- F88** Words in Sch. 2 para. 93(2)(a)(ii) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 31\(3\)\(b\)](#), 89 (with [Sch. 8 paras. 90-96](#))

Meaning of “associated company”

- 94 (1) For the purposes of the SIP code one company is an “associated company” of another company at a given time if—
- (a) one has control of the other, or
 - (b) both are under the control of the same person or persons.
- (2) Sub-paragraph (1) does not, however, apply for the purposes of paragraph 29 (prohibited shares).

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- (3) For the purposes of sub-paragraph (1) the question whether a person controls a company is to be determined in accordance with [F89 sections 450 and 451 of CTA 2010].

Textual Amendments

F89 Words in Sch. 2 para. 94(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 396(7)** (with Sch. 2)

Meaning of participant ceasing to be in relevant employment

- 95 (1) This paragraph explains what is meant, for the purposes of the SIP code, by a participant ceasing to be in relevant employment.
- (2) For the purposes of the SIP code “relevant employment” means employment by the company or any associated company.
- (3) A participant who remains in the employment of the company or any associated company does not cease to be in relevant employment.

Meaning of shares being withdrawn from plan

- 96 (1) For the purposes of the SIP code plan shares are withdrawn from a SIP when—
- they are transferred by the trustees to the participant, or another person, on the direction of the participant,
 - the participant assigns, charges or otherwise disposes of the beneficial interest in the shares, or
 - they are disposed of by the trustees, on the direction of the participant, in circumstances where the trustees account (or hold themselves ready to account) for the proceeds to the participant or to another person.
- (2) Where the participant has died, the references in sub-paragraph (1) to the participant are to the participant’s personal representatives.

Meaning of shares ceasing to be subject to plan

- 97 (1) For the purposes of the SIP code plan shares cease to be subject to a SIP when—
- they are withdrawn from the plan,
 - the participant to whom the shares were awarded ceases to be in relevant employment at a time when the shares are subject to the plan, or
 - the trustees dispose of the shares under provision made in accordance with paragraph 79 (meeting by trustees of PAYE obligations).
- (2) If an individual—
- participates in an award of partnership shares, and
 - ceases to be in relevant employment at any time during the acquisition period relating to that award,
- the individual is to be treated for the purposes of this paragraph as ceasing to be in relevant employment immediately after the shares are awarded.
- (3) In sub-paragraph (2) “the acquisition period” in relation to an award means—

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- (a) where there was no accumulation period, the period beginning with the deduction of the partnership share money and ending with the acquisition date (as defined by paragraph 50(4)), and
 - (b) where there was an accumulation period, the period beginning with the end of that period and ending immediately before the acquisition date (as defined by paragraph 52(5)).
- (4) If a participant ceases to be in relevant employment, the participant’s plan shares are to be treated as ceasing to be subject to the plan on the date of leaving.

Meaning of “the specified retirement age”

F9098

Textual Amendments

F90 Sch. 2 para. 98 omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 5](#) (with [Sch. 2 para. 17](#))

Minor definitions

- 99 (1) In the SIP code—
- “articles of association”, in relation to a company, includes any other written agreement between the shareholders of the company;
 - “company” means a body corporate;
 - “group of companies” means a company and any other companies of which it has control, and “group company” has a corresponding meaning;
 - “participant’s plan shares”, in relation to a SIP, means plan shares that have been awarded to an individual participant;
 - “PAYE obligations” means (subject to paragraphs 79(2) and 80(2)) obligations of any person under—
 - (a) Part 11 of this Act, or
 - (b) PAYE regulations;
 - “plan shares”, in relation to a SIP, means—
 - (a) free, partnership or matching shares which have been awarded to participants under the plan,
 - (b) dividend shares which have been acquired on behalf of participants under the plan, and
 - (c) shares in relation to which paragraph 87(1) applies (company reconstructions: new shares),
- and which (in each case) remain subject to the plan;
- “provision for forfeiture” means a provision to the effect that a participant ceases to be beneficially entitled to shares on the occurrence of certain events, and “forfeiture” is to be read accordingly;
 - “qualifying corporate bond” has the meaning given by section 117 of TCGA 1992;
 - “redundancy” has the same meaning as in ERA 1996 or ER(NI)O 1996;

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“rights arising under a rights issue” means rights conferred in respect of a participant’s plan shares to be allotted, on payment, other shares or securities or rights of any description in the same company.

- (2) For the purposes of the SIP code references to “shares” include fractions of shares forming part of the share capital of a company registered in a foreign country the law of which recognises such fractions.
- (3) For the purposes of the SIP code a company is a member of a consortium owning another company if it is one of a number of companies—
- (a) which between them beneficially own not less than 75% of the other company’s ordinary share capital, and
 - (b) each of which beneficially owns not less than 5% of that capital.
- [^{F91}(4) For the purposes of the SIP code—
- (a) shares are subject to a “restriction” if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares, and
 - (b) the “restriction” is that provision.]

Textual Amendments

F91 Sch. 2 para. 99(4) inserted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 2 para. 56**

Index of defined expressions

100 In the SIP code the following expressions are defined or otherwise explained by the provisions indicated below:

accumulation period	paragraph 51
^{F92}	^{F92}
...	...
articles of association	paragraph 99(1)
associated company	paragraph 94 (and see paragraph 29(3))
award of shares	paragraph 5(1)
^{F93}	...
...	
building society	[^{F94} section 989 of ITA 2007]
ceasing to be in relevant employment (in relation to a participant)	paragraph 95
ceasing to be subject to plan (in relation to shares)	paragraph 97
child	[^{F95} section 721(6)]

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close company	[^{F96} section 989 of ITA 2007] ^{F97}
	...
company	paragraph 99(1)
the company (in relation to a SIP)	paragraph 2(2)
company reconstruction (in Part 11 of this Schedule)	paragraph 86(1)
connected person	section 718
consortium (member of)	paragraph 99(3)
constituent company	paragraph 4(3)
control	section 719 (and see paragraphs 29(5), 37(6) and 94(3))
distribution	[^{F98} section 989 of ITA 2007]
dividend shares	paragraph 62(3)(b)
earnings	section 62 and see section 721(7)
eligible shares (in Part 4 of this Schedule)	paragraph 25(2)
employee, employed, employer and employment	section 4
the employment requirement	paragraph 15(3)
forfeiture, provision for	paragraph 99(1)
free shares	paragraph 2(1)(a)
group company	paragraph 99(1)
group of companies	paragraph 99(1)
group plan	paragraph 4(2)
holding period	paragraph 36 (and see paragraph 67)
^{F93}	
...	
market value (of shares)	paragraph 92
matching shares	paragraph 3(1)
notice (except in paragraph 54 or 55)	[^{F99} section 989 of ITA 2007]
ordinary share capital	[^{F100} section 989 of ITA 2007]
parent company	paragraph 4(1)
participant (in relation to a SIP)	paragraph 5(4)
participant's plan shares	paragraph 99(1) (and see paragraph 87(1))
participation in an award of shares	paragraph 5(3)

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partnership share agreement	paragraph 44
partnership share money	paragraph 45(2)
partnership shares	paragraph 2(1)(b)
PAYE deduction	section 488(4)
PAYE obligations	paragraph 99(1)
PAYE regulations	section 684(8)
performance allowances	paragraph 34(4)
personal representatives	[^{F101} section 989 of ITA 2007]
plan requirements (in relation to a SIP)	paragraph 2(2)
plan shares (in relation to a SIP)	paragraph 99(1) (and see paragraphs 86 to 88)
the plan trust	paragraph 71(3)
provision for forfeiture	paragraph 99(1)
qualifying corporate bond	paragraph 99(1)
qualifying employee	paragraph 8(6)
recognised stock exchange	[^{F102} section 1005 of ITA 2007]
redundancy	paragraph 99(1)
reinvestment	paragraph 62(3)(a)
relevant employment	paragraph 95(2)
[^{F103} restriction (in relation to shares)	paragraph 99(4)]
rights arising under a rights issue	paragraph 99(1)
salary	paragraph 43(4)
share incentive plan (“SIP”)	section 488(4)
[^{F104} Schedule 2 SIP	paragraph 1 and Part 10 of this Schedule]
shares	paragraph 99(2) (and in the context of a new holding, paragraph 87(6))
the SIP code	section 488(3)
F105	F105
...	...
F106	F106
...	...
tax	[^{F107} section 989 of ITA 2007]
[^{F108} tribunal	section 989 of ITA 2007]
tax year	[^{F109} section 4(2) of ITA 2007 (as applied by section 989 of that Act)]

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the trustees	paragraphs 2(2), 71(1)
the trust instrument	paragraph 71(3)
withdrawal of shares from plan	paragraph 96(1)

Textual Amendments

- F92** Words in Sch. 2 para. 100 Table omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), Sch. 8 paras. 32(a), 89 (with Sch. 8 paras. 90-96)
- F93** Sch. 2 para. 100 entry repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 121(e), Sch. 5; S.I. 2005/1126, art. 2(2)(h)(i)
- F94** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(a) (with Sch. 2)
- F95** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(b) (with Sch. 2)
- F96** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(c) (with Sch. 2)
- F97** Words in Sch. 2 para. 100 Table omitted (with effect in accordance with Sch. 2 para. 38 of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 2 para. 37
- F98** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(d) (with Sch. 2)
- F99** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(e) (with Sch. 2)
- F100** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(f) (with Sch. 2)
- F101** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(g) (with Sch. 2)
- F102** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(h) (with Sch. 2)
- F103** Words in Sch. 2 para. 100 Table inserted (with effect in accordance with Sch. 2 para. 58 of the amending Act) by Finance Act 2013 (c. 29), Sch. 2 para. 57
- F104** Words in Sch. 2 para. 100 Table inserted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 32(b), 89 (with Sch. 8 paras. 90-96)
- F105** Words in Sch. 2 para. 100 Table omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 343(2)
- F106** Words in Sch. 2 para. 100 Table omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), Sch. 2 para. 6 (with Sch. 2 para. 17)
- F107** Words in Sch. 2 para. 100 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 396(8) (with Sch. 2)
- F108** Words in Sch. 2 para. 100 Table inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 343(3)
- F109** Words in Sch. 2 para. 100 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 447(3)(j) (with Sch. 2)

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