

Status: Point in time view as at 01/09/2004.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 30 September 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 3

APPROVED SAYE OPTION SCHEMES

PART 9

SUPPLEMENTARY PROVISIONS

Power to require information

- 45 (1) The Inland Revenue may by notice require any person to provide them with any information—
- (a) which they reasonably require for the performance of their functions under the SAYE 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 the Inland Revenue—
 - (i) to decide whether to approve an SAYE option scheme or to withdraw an approval already given, or
 - (ii) to determine the liability to tax, including capital gains tax, of any person who has participated in a scheme, and
 - (b) information about the administration of a scheme and any alteration of the terms of a scheme.
- (3) The notice must require the information to be provided within a specified time, which must not end earlier than 3 months after the date when the notice is given.

Jointly owned companies

- 46 (1) This paragraph applies for the purposes of the provisions of the SAYE code relating to group schemes.
- (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—
- (a) the jointly owned company, and
 - (b) any company controlled by that company.
- (4) However, no company within sub-paragraph (3) may be—
- (a) a constituent company in more than one group scheme, or

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- (b) a constituent company in a particular group scheme if another company within that sub-paragraph is a constituent company in a different group scheme.
- (5) In this paragraph a “jointly owned company” means a company which (apart from sub-paragraph (2)) is not controlled by any one person and—
- (a) of which 50% of the issued share capital is owned by one person and 50% by another, or
 - (b) which is otherwise controlled by two persons taken together.
- (6) In this paragraph “joint owner” means one of the persons mentioned in sub-paragraph (5)(a) or (b).

Meaning of “associated company”

- 47 (1) For the purposes of the SAYE code, except in paragraph 35(3) (time when “scheme-related employment” ends), one company is an “associated company” of another company at a given time if, at that time or at any other time within one year previously—
- (a) one has control of the other, or
 - (b) both are under the control of the same person or persons.
- (2) For the purposes of sub-paragraph (1) the question whether a person controls a company is to be determined in accordance with section 416(2) to (6) of ICTA.

Minor definitions

- 48 (1) In the SAYE code—
- “certified contractual savings scheme” has the meaning given in section 326(2) to (6) of ICTA;
 - “company” means a body corporate;
 - “market value” has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act.
- (2) For the purposes of the SAYE 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.

Index of defined expressions

- 49 In the SAYE code the following expressions are defined or otherwise explained by the provisions indicated below:

approved	section 516(4) (and see paragraph 42(3))
associated company	paragraph 47(1)
the bonus date	paragraph 30(3)

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certified contractual savings scheme (CCS scheme)	paragraph 48(1)
child	section 832(5) of ICTA, (and see section 721(6) of this Act)
close company	section 832(1) of ICTA, (and see paragraph 11(4))
company	paragraph 48(1)
connected person	section 718
constituent company	paragraph 3(3)
control	section 719 (and see paragraphs 35(4) and 47(2))
distribution	section 832(1) of ICTA
earnings	section 62 and see section 721(7)
eligible shares (in Part 4 of this Schedule)	paragraph 17(2)
employee and employment	section 4
group scheme	paragraph 3(2) (and see paragraph 46)
the Inland Revenue	section 720(1)
interest	section 832(1) of ICTA
market value	paragraph 48(1)
member of a consortium	paragraph 48(2)
notice	section 832(1) of ICTA
the options (in relation to a participant)	paragraph 2(2)
ordinary share capital	section 832(1) of ICTA
participant	paragraph 2(2)
participate	paragraph 2(2)
personal representatives	section 721(1)
recognised stock exchange	section 841 of ICTA
the SAYE code	section 516(3)
SAYE option scheme	section 516(4)
the scheme organiser	paragraph 2(2)
share option	section 516(4)
shares	section 516(4)
Special Commissioners	section 4 of TMA 1970
specified age	paragraph 31
tax	section 832(3) of ICTA
United Kingdom	section 830 of ICTA

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