

*Status: Point in time view as at 06/05/2005.*

*Changes to legislation: Income and Corporation Taxes Act 1988, Cross Heading: Excess or unauthorised shares is up to date with all changes known to be in force on or before 15 July 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 10

#### FURTHER PROVISIONS RELATING TO PROFIT SHARING SCHEMES

##### Modifications etc. (not altering text)

- C1** Sch. 10 excluded (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 238(2)(c)(4), 289 (with ss. 60, 101(1), 171, 201(3))
- C1** Sch. 10 modified (29.4.1996) by Finance Act 1996 (c. 8), s. 116(3)
- C1** Sch. 10 continued (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 418(3) (with Sch. 7)

##### *Excess or unauthorised shares*

- 6 (1) <sup>M1</sup>This paragraph applies in any case where—
- (a) the total amount of the initial market value of all the shares which are appropriated to an individual in any one year of assessment (whether under a single approved profit sharing scheme or under two or more such schemes) exceeds the relevant amount; or
  - (b) the trustees of an approved profit sharing scheme appropriate shares to an individual at a time when he is ineligible to participate in the scheme by virtue of paragraph 8 or 35 of Schedule 9.
- (2) In this paragraph—
- “excess shares” means any share which caused the relevant amount to be exceeded and any share appropriated after that amount was exceeded; and
  - “unauthorised shares” means any share appropriated as mentioned in sub-paragraph (1)(b) above.
- (3) For the purposes of sub-paragraph (1)(a) above, if a number of shares is appropriated to an individual at the same time under two or more approved profit sharing schemes, the same proportion of the shares appropriated at that time under each scheme shall be regarded as being appropriated before the relevant amount is exceeded.
- (4) For the purposes of any of the relevant provisions [<sup>F1</sup>under which an amount counts as employment income of an individual] by reason of the occurrence of an event relating to any of his shares—
- (a) the appropriate percentage in relation to excess or unauthorised shares shall in every case be 100 per cent.; and
  - (b) without prejudice to section 187(8), the event shall be treated as relating to shares which are not excess or unauthorised shares before shares which are.
- (5) Excess or unauthorised shares which have not been disposed of before the release date or, if it is earlier, the date of the death of the participant whose shares they are, shall be treated for the purposes of the relevant provisions as having been disposed

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of by the trustees immediately before the release date or, as the case may require, the date of the participant's death, for a consideration equal to their market value at that time.

- (6) The locked-in value at any time of any excess or unauthorised shares shall be their market value at that time.
- (7) Where there has been a company reconstruction to which paragraph 5 above applies, a new share (within the meaning of that paragraph) shall be treated as an excess or unauthorised share if the corresponding share (within the meaning of that paragraph) or, if there was more than one corresponding share, each of them was an excess or unauthorised share.

#### **Textual Amendments**

- F1** Words in [Sch. 10 paras. 3\(1\), 6\(4\)](#) substituted (6.4.2003 with effect in accordance with [s. 723\(1\)](#) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 113\(2\)](#) (with [Sch. 7](#))

#### **Marginal Citations**

- M1** Source—1978 s.58; 1983 s.25(1)

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