



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART V

PROVISIONS RELATING TO THE SCHEDULE E CHARGE

CHAPTER IV

OTHER EXEMPTIONS AND RELIEFS

Share option and profit sharing schemes

186 Approved profit sharing schemes.

- (1) ^{M1}The provisions of this section apply where, after 5th April 1979 [^{F1}and before 1st January 2003], the trustees of an approved profit sharing scheme appropriate shares—
 - (a) which have previously been acquired by the trustees, and
 - (b) as to which the conditions in Part II of Schedule 9 are fulfilled, to an individual who participates in the scheme (“the participant”).
- (2) ^{M2}Notwithstanding that, by virtue of such an appropriation of shares as is mentioned in subsection (1) above, the beneficial interest in the shares passes to the participant to whom they are appropriated—
 - (a) the value of the shares at the time of the appropriation shall be treated as not being income of his chargeable to tax under Schedule E; and
 - (b) he shall not be chargeable to income tax under that Schedule by virtue of [^{F2}section 78 or 79 of the Finance Act 1988 in respect of the shares] or by virtue of section 162 in any case where the shares are appropriated to him at an undervalue within the meaning of that section.
- (3) ^{M3}Subject to the provisions of this section and paragraph 4 of Schedule 10, if, in respect of or by reference to any of a participant’s shares, the trustees become or the participant becomes entitled, before the release date, to receive any money or money’s worth (“a

Status: Point in time view as at 28/07/2000. This version of this provision has been superseded.

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capital receipt”), the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the entitlement arises on the appropriate percentage (determined as at the time the trustees become or the participant becomes so entitled) of so much of the amount or value of the receipt as exceeds the appropriate allowance for that year, as determined under subsection (12) below.

- (4)^{M4}If the trustees dispose of any of a participant’s shares at any time before the release date or, if it is earlier, the date of the participant’s death, then, subject to subsections (6) and (7) below, the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the disposal takes place on the appropriate percentage of the locked-in value of the shares at the time of the disposal.
- (5)^{M5}Subject to paragraphs 5 and 6(6) of Schedule 10, the locked-in value of a participant’s shares at any time is—
- (a) if prior to that time he has become chargeable to income tax by virtue of subsection (3) above on a percentage of the amount or value of any capital receipt which is referable to those shares, the amount by which their initial market value exceeds the amount or value of that capital receipt or, if there has been more than one such receipt, the aggregate of them; and
 - (b) in any other case, their initial market value.
- (6) Subject to subsection (7) below, if, on a disposal of shares falling within subsection (4) above, the proceeds of the disposal are less than the locked-in value of the shares at the time of the disposal, subsection (4) above shall have effect as if that locked-in value were reduced to an amount equal to the proceeds of the disposal.
- (7) If, at any time prior to the disposal of any of a participant’s shares, a payment was made to the trustees to enable them to exercise rights arising under a rights issue, then, subject to subsection (8) below, subsections (4) and (6) above shall have effect as if the proceeds of the disposal were reduced by an amount equal to that proportion of that payment or, if there was more than one, of the aggregate of those payments which, immediately before the disposal, the market value of the shares disposed of bore to the market value of all the participant’s shares held by the trustees at that time.
- (8)^{M6}For the purposes of subsection (7) above—
- (a) no account shall be taken of any payment to the trustees if or to the extent that it consists of the proceeds of a disposal of rights arising under a rights issue; and
 - (b) in relation to a particular disposal the amount of the payment or, as the case may be, of the aggregate of the payments referred to in that subsection shall be taken to be reduced by an amount equal to the total of the reduction (if any) previously made under that subsection in relation to earlier disposals;
- and any reference in subsection (7) or paragraph (a) above to the rights arising under a rights issue is a reference to rights conferred in respect of a participant’s shares, being rights to be allotted, on payment, other shares or securities or rights of any description in the same company.
- (9)^{M7}If at any time the participant’s beneficial interest in any of his shares is disposed of, the shares in question shall be treated for the purposes of the relevant provisions as having been disposed of at that time by the trustees for (subject to subsection (10) below) the like consideration as was obtained for the disposal of the beneficial interest; and for the purposes of this subsection there is no disposal of the participant’s beneficial interest if and at the time when—

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- (a) in England and Wales or Northern Ireland, that interest becomes vested in any person on the insolvency of the participant or otherwise by operation of law, or
 - (b) in Scotland, that interest becomes vested in a judicial factor, in a trustee on the participant's sequestrated estate or in a trustee for the benefit of the participant's creditors.
- (10) If—
- (a) a disposal of shares falling within subsection (4) above is a transfer to which paragraph 2(2)(c) of Schedule 9 applies, or
 - ^{F3}(b) any other disposal falling within that subsection is not at arm's length,
 - (c) a disposal of shares falling within ^{F4}that subsection] is one which is treated as taking place by virtue of subsection (9) above and takes place within the period of retention,
- then for the purposes of the relevant provisions the proceeds of the disposal shall be taken to be equal to the market value of the shares at the time of the disposal.
- (11) ^{M8}Where the trustees of an approved scheme acquire any shares as to which the requirements of Part II of Schedule 9 are fulfilled and, within the period of 18 months beginning with the date of their acquisition, those shares are appropriated in accordance with the scheme, section 686 shall not apply to income consisting of dividends on those shares received by the trustees; and, for the purpose of determining whether any shares are appropriated within that period, shares which were acquired at an earlier time shall be taken to be appropriated before shares of the same class which were acquired at a later time.
- (12) ^{M9}For the purposes of subsection (3) above, “the appropriate allowance”, in relation to any year of assessment, means a sum which, subject to a maximum of ^{F5}£60], is the product of multiplying £20 by 1 plus the number of years which fall within the period of ^{F6}three years] immediately preceding the year in question and in which shares were appropriated to the participant under the scheme; and if in any year (and before the release date) the trustees become or the participant becomes entitled, in respect of or by reference to any of his shares, to more than one capital receipt, the receipts shall be set against the appropriate allowance for that year in the order in which they are received.
- (13) Schedule 10 shall have effect with respect to profit sharing schemes.

Textual Amendments

- F1** Words in s. 186(1) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\), s. 49\(3\)](#)
- F2** Words in s. 186(2)(b) substituted (in respect of acquisitions of shares on or after 26.10.1987) by [Finance Act 1988 \(c. 39\), s. 89](#)
- F3** S. 186(10)(b) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 134\(1\), Sch. 20 para. 11\(a\)](#)
- F4** Words in s. 186(10)(c) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 134\(1\), Sch. 20 para. 11\(b\)](#)
- F5** Words in s. 186(12) substituted (with effect in accordance with s. 118(2) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 118\(1\)\(a\)](#)
- F6** Words in s. 186(12) substituted (with effect in accordance with s. 118(2) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 118\(1\)\(b\)](#)

Modifications etc. (not altering text)

- C1** S. 186 modified (29.4.1996) by [Finance Act 1996 \(c. 8\), ss. 115\(1\), 116\(3\)](#)

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Marginal Citations

- M1** Source—1978 s.53(1)
- M2** Source—1978 s.53(3)
- M3** Source—1978 s.56(1); 1982 s.42(1)
- M4** Source—1978 s.55(1)
- M5** Source—1978 s.55(2)-(4)
- M6** Source—1978 s.55(5), (9)
- M7** Source—1978 s.55(7), (8)
- M8** Source—1978 s.53(6)
- M9** Source—1978 s.56(6); 1980 s.46(6); 1982 s.42(2); 1985 s.45(4)

Status:

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