



# Finance Act 1988

## 1988 CHAPTER 39

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER II

#### UNAPPROVED EMPLOYEE SHARE SCHEMES

#### *Charges to tax*

#### **80 Charge on special benefits**

- (1) Subject to subsections (5) and (6) below, the person acquiring the shares or interest in shares shall be chargeable to tax if he receives a special benefit by virtue of his ownership of or interest in the shares.
- (2) A benefit is a “special benefit” for the purposes of subsection (1) above unless—
  - (a) it is received in respect of all shares of the same class as those which, or an interest in which, the person acquired, and
  - (b) any of the conditions in subsection (3) below is satisfied.
- (3) The conditions referred to in subsection (2) above are—
  - (a) that when the benefit is received the majority of the company’s shares of the class concerned are held otherwise than by or for the benefit of—
    - (i) directors or employees of the company,
    - (ii) an associated company of the company, or
    - (iii) directors or employees of any such associated company;
  - (b) that when the benefit is received the company is employee-controlled by virtue of holdings of shares of the class concerned;
  - (c) that when the benefit is received the company is a subsidiary which is not a dependent subsidiary and its shares are of a single class.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A charge by virtue of this section shall be a charge under Schedule E, for the year of assessment in which the benefit is received, on an amount equal to the value of the benefit.
- (5) Subsection (1) above shall apply only if the person receiving the benefit has been a director or employee of—
  - (a) the company referred to in that subsection, or
  - (b) (if it is different) the company as a director or employee of which he acquired the shares or interest, or
  - (c) an associated company of a company within paragraph (a) or (b) above, at some time during the period of seven years ending with the date on which the benefit is received.
- (6) A benefit shall not be chargeable by virtue of this section if it is chargeable to income tax apart from this section.