

Status: Point in time view as at 02/07/2002.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, SCHEDULE 12. (See end of Document for details)

SCHEDULES

SCHEDULE 12

Section 107.

CLOSE COMPANIES

PART I

ADMINISTRATIVE PROVISIONS

Interpretation

- 1 In this Part of this Schedule “the relevant provisions” means—
- (a) sections [F1 13 to 13A], 231 and 419 to 422 of the Taxes Act 1988, and
 - (b) Chapter III of Part XI of that Act (as it has effect in relation to accounting periods beginning before 1st April 1989).

Textual Amendments

- F1** Words in Sch. 12 para. 1(a) substituted (27.7.1999 with effect as mentioned in s. 28(6)(7) of the amending Act) by 1999 c. 16, s. 28(4)

Provision of information by company

- 2 The inspector may, by notice, require any company which is, or appears to him to be, a close company to furnish him within such time (not being less than 30 days) as may be specified in the notice with such particulars as he thinks necessary for the purposes of the relevant provisions.

Provision of information by shareholders

- 3 (1) If for the purposes of the relevant provisions any person in whose name any shares are registered is so required by notice by the inspector, he shall state whether or not he is the beneficial owner of the shares and, if not the beneficial owner of the shares, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.
- (2) This paragraph shall apply in relation to loan capital as it applies in relation to shares.

Information about bearer securities

- 4 (1) The inspector may, for the purposes of the relevant provisions, by notice require—
- (a) any company which appears to him to be a close company to furnish him with particulars of any bearer securities issued by the company, and the names and addresses of the persons to whom the securities were issued and the respective amounts issued to each person, and

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(b) any person to whom bearer securities were issued by the company, or to or through whom such securities were subsequently sold or transferred, to furnish him with such further information as he may require with a view to enabling him to ascertain the names and addresses of the persons beneficially interested in the securities.

(2) In this paragraph—

“loan creditor” has the same meaning as in Part XI of the Taxes Act 1988, and

“securities” includes shares, stock, bonds, debentures and debenture stock and also any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.

PART II

AMENDMENTS CONNECTED WITH REPEAL OF CHAPTER III OF PART XI OF TAXES ACT 1988

The Taxes Management Act 1970 (c.9)

5 In the first column of the Table in section 98 of the Taxes Management Act 1970 (penalty for failure to give particulars etc.) there shall be added at the end— “Paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989.”

The Capital Gains Tax Act 1979 (c.14)

F26

Textual Amendments
F2 Sch. 12 para. 6 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch.12 (with ss. 201(3), Sch. 11 paras. 22, 26(2), 27)

The Income and Corporation Taxes Act 1988 (c.1)

7 In section 13 of the Taxes Act 1988 (small companies’ rate) in subsection (9) for the words “paragraph 17 of Schedule 19” there shall be substituted the words “paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989”.

8 (1) In section 168(11) of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of Chapter II of Part V of that Act) for the words from “in a company” to the end of paragraph (b) there shall be substituted—

“in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—

(a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 5 percent. of the ordinary share capital of the company, or

(b) in the case of a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more

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than 5 per cent. of the assets which would then be available for distribution among the participators.” and at the end there shall be added the words “ , and “participator” has the meaning given by section 417(1) ”.

- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 9 (1) In section 187(3) of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of sections 185 to 187 of, and Schedules 9 and 10 to, that Act) for the words from “in a company” to the end of paragraph (b) there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 25 percent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company, or
- (b) where the company is a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 25 percent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the assets which would then be available for distribution among the participators.” and at the end there shall be added the words “ and “participator” has the meaning given by section 417(1) ”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 10 (1) In section 214 of the Taxes Act 1988 (chargeable payments connected with exempt distributions) in subsection (1)(c) for the words from “338(2)(a)” to “Schedule 19” there shall be substituted the words “and 338(2)(a)”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989, except in any case where section 427(4) of the Taxes Act 1988 has effect by virtue of section 103(2) of this Act.
- 11 In section 234 of the Taxes Act 1988 (information relating to distributions) in subsection (9) for the words from “paragraph 17” to “that Schedule” there shall be substituted the words “paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989 for the purposes of the relevant provisions (as defined in paragraph 1 of that Schedule)”.
- 12 (1) Section 360 of the Taxes Act 1988 (loan to buy interest in a close company) shall be amended in accordance with this paragraph.
- (2) In subsection (1)(a) for the words from “satisfying” to “424(4)” there shall be substituted the words “complying with section 13A(2)”.
- (3) In subsections (2)(a) and (3)(a) for the words “satisfy any of the conditions of section 424(4)” there shall be substituted the words “comply with section 13A(2)”.

Status: Point in time view as at 02/07/2002.

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- (4) This paragraph shall have effect in relation to interest paid on or after the day on which this Act is passed (and, accordingly, the conditions of section 424(4) of the Taxes Act 1988 shall continue to have effect for the purposes of section 360 of that Act in relation to interest paid before that day).
- 13 (1) Section 360A of the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of section 360(2)(a)) shall be amended in accordance with this paragraph.
- (2) In subsection (1) for the words from “in a company” onwards there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 5 percent. of the ordinary share capital of the company, or
- (b) possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 5 per cent. of the assets which would then be available for distribution among the participators.”
- (3) In subsection (10) after the word “section” there shall be inserted the words “participator” has the meaning given by section 417(1) and”.
- (4) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 14 (1) In section 576 of the Taxes Act 1988 (which relates to relief for losses on certain unquoted shares) in subsection (5), for paragraph (a) of the definition of “trading company” there shall be substituted—
- “(a) a company whose business consists wholly or mainly of the carrying on of a trade or trades”.
- (2) This paragraph shall have effect in relation to disposals made after 31st March 1989.
- 15 (1) In section 623 of the Taxes Act 1988 (meaning of “relevant earnings” for the purposes of Chapter III of Part XIV of that Act) in subsection (2) for the words “(construed in accordance with paragraph 7 of Schedule 19)” there shall be substituted the words “(that is to say, income which, if the company were an individual, would not be earned income)”.
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.
- 16 (1) In section 644 of the Taxes Act 1988 (meaning of “relevant earnings” for the purposes of Chapter IV of Part XIV of that Act) in subsection (6) for the definition of “investment income” there shall be substituted—
- ““investment income” means income which, if the company were an individual, would not be earned income.”
- (2) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.

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- 17 In section 745 of the Taxes Act 1988 (power to obtain information for the purposes of Chapter III of Part XVII of that Act) in subsection (4) for the words from “trading” onwards there shall be substituted the words “companies whose business consists wholly or mainly of the carrying on of a trade or trades.”
- 18 (1) Paragraph 7 of Schedule 8 to the Taxes Act 1988 (cases in which a person has a material interest in a company for the purposes of a profit-related pay scheme) shall be amended in accordance with this paragraph.
- (2) In sub-paragraph (2) for the words from “in a company” onwards there shall be substituted—
- “in a company if he, either on his own or with one or more associates, or if any associate of his with or without such other associates,—
- (a) is the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means to control, more than 25 percent. of the ordinary share capital of the company, or
- (b) in the case of a close company, possesses, or is entitled to acquire, such rights as would, in the event of the winding-up of the company or in any other circumstances, give an entitlement to receive more than 25 per cent. of the assets which would then be available for distribution among the participators”.
- (3) In sub-paragraph (3) the second “and” shall be omitted and after the definition of “control” there shall be inserted “and
- “participator” has the meaning given by section 417(1)”.
- (4) This paragraph shall have effect in relation to accounting periods beginning after 31st March 1989.

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