

## SCHEDULES

### SCHEDULE 8

#### EMPLOYEE SHARE OWNERSHIP PLANS

##### PART XI

##### CAPITAL GAINS TAX

###### *Introduction*

- 97 The provisions of this Part apply for capital gains tax purposes in relation to an approved employee share ownership plan.

###### *Gains accruing to trustees*

- 98 (1) Any gain accruing to the trustees is not a chargeable gain if the shares—
- (a) are shares in relation to which the requirements of Part VIII are met, and
  - (b) are awarded to employees, or acquired on their behalf as dividend shares, in accordance with the plan within the relevant period.
- (2) If the shares are readily convertible assets at the time they are acquired by the trustees, the relevant period is the period of two years beginning with the date on which the shares are acquired by the trustees.
- (3) If at the time of their acquisition by the trustees the shares are not readily convertible assets, the relevant period is—
- (a) the period of five years beginning with the date on which the shares were acquired, or
  - (b) if within that period the shares in question become readily convertible assets, the period of two years beginning with the date on which they did so,
- whichever ends first.
- (4) For the purposes of determining whether shares are awarded to employees within the relevant period, shares acquired by the trustees at an earlier time are taken to be awarded to employees before shares of the same class acquired by the trustees at a later time.

This is subject to paragraph 76(1) (treatment of shares acquired from an employee share ownership trust).

###### *Participant absolutely entitled as against trustees*

- 99 (1) A participant is treated for capital gains tax purposes as absolutely entitled as against the trustees to any shares awarded to him under the plan.
- (2) This applies notwithstanding anything in the plan or the trust instrument.

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*Status: This is the original version (as it was originally enacted).*

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*Different classes of shares*

- 100 (1) For the purposes of Chapter I of Part IV of the Taxation of Chargeable Gains Act 1992 (identification of shares etc.) a participant's plan shares are treated, so long as they are subject to the plan, as of a different class from any shares (which would otherwise be treated as of the same class) that are not plan shares.
- (2) For the purposes of that Chapter, any shares transferred to the trustees of the plan trust by a qualifying transfer that have not been awarded to participants under the plan shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any shares held by the trustees that were not transferred to them by a qualifying transfer.
- (3) In sub-paragraph (2) "qualifying transfer" has the meaning given in paragraph 76 (acquisition by trustees of shares from employee share ownership trust).

*No chargeable gain on shares ceasing to be subject to the plan*

- 101 (1) Shares which cease to be subject to the plan are treated as having been disposed of and immediately reacquired by the participant at market value.
- (2) Any gain accruing on that disposal is not a chargeable gain.

*Treatment of forfeited shares*

- 102 (1) If any of the participant's plan shares are forfeited, they are treated as having been disposed of by the participant and acquired by the trustees at market value at the date of forfeiture.
- (2) Any gain accruing on that disposal is not a chargeable gain.

*Acquisition by trustees of shares from profit sharing scheme*

- 103 (1) Where the trustees acquire shares from the trustees of an approved profit sharing scheme, the disposal and the acquisition by the trustees are treated as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.
- (2) In such a case the relevant period for the purposes of paragraph 98 is determined as if the shares had been acquired by the trustees at the time they were acquired by the trustees of the other trust.

This does not affect the date on which the trustees are treated as acquiring the shares for the purposes of taper relief.

*Disposal of rights under rights issue*

- 104 (1) Any gain accruing on the disposal of rights under paragraph 72 (power of trustees to raise funds to subscribe for rights issue) is not a chargeable gain.
- (2) Sub-paragraph (1) does not apply to a disposal of rights unless similar rights are conferred in respect of all ordinary shares in the company.