



Finance Act 2000

2000 CHAPTER 17

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

OTHER PROVISIONS

Employee share ownership

52 Approved profit sharing schemes: restriction on type of shares

- (1) Schedule 9 to the Taxes Act 1988 (share option schemes and profit sharing schemes) is amended in accordance with subsections (2) to (4).
- (2) In paragraph 9(1) (requirements to be satisfied by shares in share option schemes), after “below” insert “(disregarding paragraph 11A)”.
- (3) After paragraph 11 (requirements as to listing etc.) insert—
 - “11A (1) In the case of a profit sharing scheme, scheme shares must not be shares—
 - (a) in an employer company, or
 - (b) in a company that—
 - (i) has control of an employer company, and
 - (ii) is under the control of a person or persons within subparagraph (2)(b)(i) below in relation to an employer company.
 - (2) For the purposes of this paragraph a company is “an employer company” if—
 - (a) the business carried on by it consists substantially in the provision of the services of the persons employed by it, and

Status: This is the original version (as it was originally enacted).

- (b) the majority of those services are provided to—
 - (i) a person who has, or two or more persons who together have, control of the company, or
 - (ii) a company associated with the company.
 - (3) For the purposes of sub-paragraph (2)(b)(ii) above a company shall be treated as associated with another company if both companies are under the control of the same person or persons.
 - (4) For the purposes of sub-paragraphs (1) to (3) above—
 - (a) references to a person include a partnership, and
 - (b) where a partner, alone or together with others, has control of a company, the partnership shall be treated as having like control of that company.
 - (5) For the purposes of this paragraph the question whether a person controls a company shall be determined in accordance with section 416(2) to (6).”.
- (4) In paragraph 12—
- (a) in sub-paragraph (1), in paragraph (c) for “other than” to the end of that paragraph there shall be substituted “other than those permitted by sub-paragraph (1A) below.”, and
 - (b) after sub-paragraph (1) insert—
 - “(1A) Subject to sub-paragraph (1B) below, scheme shares may be subject to—
 - (a) restrictions which attach to all shares of the same class, or
 - (b) a restriction authorised by sub-paragraph (2) below.
 - (1B) In the case of a profit sharing scheme, scheme shares must not be subject to any restrictions affecting the rights attaching to those shares which relate to—
 - (a) dividends, or
 - (b) assets on a winding-up of the company,other than restrictions which attach to all other ordinary shares in the same company.”.
- (5) Subsections (1) to (4) shall be deemed to have come into force on 21st March 2000.
- (6) Subsections (3) and (4) do not have effect in relation to shares acquired before 21st March 2000 by the trustees of a profit sharing scheme approved under Schedule 9 to the Taxes Act 1988.