



Finance (No. 2) Act 1992

1992 CHAPTER 48

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Employee shares

36 Employee share ownership trusts

- (1) In section 69 of the Finance Act 1989 (chargeable events as regards employee share ownership trusts) the following shall be inserted after subsection (3)—

“(3A) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if it is made by way of exchange in circumstances mentioned in section 85(1) of the Capital Gains Tax Act 1979 or section 135(1) of the Taxation of Chargeable Gains Act 1992.”

- (2) This section applies in relation to exchanges made on or after 1st January 1992.

37 Employee share schemes: special benefits

- (1) Section 80 of the Finance Act 1988 (unapproved employee share schemes: charge on special benefits) shall be amended as follows.

- (2) The following subsections shall be substituted for subsection (2)—

“(1A) If when a benefit is received the company is a dependent subsidiary and its shares are of a single class, the benefit is a special benefit for the purposes of subsection (1) above.

Status: This is the original version (as it was originally enacted).

- (2) A benefit which does not fall within subsection (1A) above is a special benefit for the purposes of subsection (1) above unless—
- (a) when it becomes available it is available to at least ninety per cent. of the persons who then hold 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) In subsection (3) (other conditions) in paragraph (a) for “of the class concerned” there shall be substituted “in respect of which the benefit is received”.
- (4) In paragraph (c) of subsection (3) for “its shares are of a single class” there shall be substituted “the majority of its shares in respect of which the benefit is received are held otherwise than by or for the benefit of—
- (i) directors or employees of the company,
 - (ii) a company which is an associated company of the company but is not its parent company, or
 - (iii) directors or employees of a company which is an associated company of the company”.
- (5) The following subsection shall be inserted after subsection (3)—
- “(3A) For the purposes of subsection (3)(c)(ii) above a company is another company’s parent company if the second company is a subsidiary of the first.”
- (6) This section shall apply in relation to benefits received on or after 12th November 1991.