



# Finance Act 1996

## 1996 CHAPTER 8

### PART IV

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

### CHAPTER IV

#### SHARE OPTIONS, PROFIT SHARING AND EMPLOYEE SHARE OWNERSHIP

##### *Other share option schemes*

#### **114 Requirements to be satisfied by approved schemes**

- (1) Part IV of Schedule 9 to the Taxes Act 1988 (requirements applicable to approved share option schemes which are not savings-related) shall be amended in accordance with subsections (2) and (3) below.
- (2) In paragraph 28 (scheme must impose limit on aggregate market value of shares which may be acquired in pursuance of rights obtained under the scheme or certain related schemes)—
  - (a) in sub-paragraph (1) (aggregate market value of shares not to exceed the appropriate limit) for “the appropriate limit” there shall be substituted “£30,000”; and
  - (b) sub-paragraphs (2) and (4) (meaning of the appropriate limit and, for the purposes of that definition, the relevant emoluments) shall cease to have effect.
- (3) In paragraph 29 (price at which shares may be acquired to be stated and to be not manifestly less than the market value, or, in certain circumstances, 85 per cent. of the market value, of shares of the same class) for sub-paragraphs (1) to (6) there shall be substituted—

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*Status: This is the original version (as it was originally enacted).*

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- “(1) The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—
- (a) must be stated at the time the right is obtained, and
  - (b) must not be manifestly less than the market value of shares of the same class at that time or, if the Board and the grantor agree in writing, at such earlier time or times as may be provided in the agreement.”
- (4) Section 185 of the Taxes Act 1988 (approved share option schemes) shall be amended in accordance with subsections (5) to (7) below.
- (5) In subsection (2), for “Subject to subsections (6) to (6B) below” there shall be substituted “Subject to subsection (6) below”.
- (6) For subsections (6) to (6B) there shall be substituted—
- “(6) Where, in the case of a right obtained by a person under a scheme which is not a savings-related share option scheme, the aggregate of—
- (a) the amount or value of any consideration given by him for obtaining the right, and
  - (b) the price at which he may acquire the shares by exercising the right, is less than the market value, at the time he obtains the right, of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.”
- (7) In subsections (7) and (8) for “(6A)” there shall be substituted “(6)”.
- (8) In section 120 of the Taxation of Chargeable Gains Act 1992 (increase in expenditure by reference to tax charged in relation to shares etc) in subsection (6) (which defines the applicable provision) for paragraph (b) (which refers to subsection (6A) of section 185 of the Taxes Act 1988) there shall be substituted—
- “(b) subsection (6A) of that section (as that subsection has effect in relation to rights obtained before the day on which the Finance Act 1996 was passed), or
  - (c) subsection (6) of that section (as that subsection has effect in relation to rights obtained on or after that day).”
- (9) Schedule 16 to this Act, which makes provision with respect to share option schemes approved before the day on which this Act is passed, shall have effect.
- (10) Subsections (3) to (7) above have effect in relation to rights obtained on or after the day on which this Act is passed.

## **115 Transitional provisions**

- (1) If, during the period—
- (a) beginning with 17th July 1995, and
  - (b) ending with the day preceding the passing of this Act,
- any rights have been obtained by a person under an approved share option scheme in circumstances falling within subsection (2) below, the rights shall be treated for the purposes of sections 185 to 187 of, and Schedule 9 to, the Taxes Act 1988 as being

rights obtained otherwise than in accordance with the provisions of an approved share option scheme.

- (2) The circumstances mentioned in subsection (1) above are circumstances such that, on the assumptions in subsection (3) below, there would, by virtue of paragraph 28 or 29 of Schedule 9 to the Taxes Act 1988 (limit on what may be obtained and requirements with respect to price), have been, with respect to the operation of the scheme, a contravention of any of the relevant requirements or of the scheme itself.
- (3) The assumptions mentioned in subsection (2) above are—
  - (a) that the amendments made by subsection (2) of section 114 above had effect at all times on and after 17th July 1995;
  - (b) that the amendments made by subsections (3) to (7) of that section had effect in relation to rights obtained at any time on or after that date; and
  - (c) that the provisions of paragraphs 1(1) and 2 to 5 of Schedule 16 to this Act had effect at all times on and after 17th July 1995, but with the substitution for references to the day on which this Act is passed of references to that date.
- (4) For the purposes of this section, rights obtained by a person on or after 17th July 1995 shall be treated as having been obtained by him before that date if—
  - (a) the scheme in question is one approved before that date;
  - (b) an offer of the rights or an invitation to apply for them was made in writing to that person before that date; and
  - (c) he obtained the rights within the period of thirty days beginning with the day on which the offer or invitation was made.
- (5) In this section—

“approved share option scheme” means an approved share option scheme, within the meaning of section 185 of the Taxes Act 1988, other than a savings-related share option scheme;

“relevant requirements” has the meaning given in paragraph 1(1) of Schedule 9 to the Taxes Act 1988;

“savings-related share option scheme” has the meaning given by Schedule 9 to the Taxes Act 1988.