

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Omitted material

Schedule 3: Approved Saye Option Schemes

Overview

Part 1: Introduction

Paragraph 1: Approval of SAYE option schemes

3250. This paragraph indicates the contents of this Schedule (in *sub-paragraph (1)*) and the sub-paragraphs into which it is divided (in *sub-paragraphs (2) to (4)*). It mirrors the opening paragraphs of Schedules 2, 4 and 5. The paragraph has no counterpart in the present legislation. The intention is to help users to understand the subject matter of the Schedule and to locate relevant material.

Paragraph 2: SAYE option schemes

3251. This paragraph contains definitions that apply generally for the purposes of the SAYE code. It derives from section 185(2) of ICTA and also from various paragraphs of Schedule 9 to ICTA, including paragraph 8, and continues the introductory theme.

3252. *Sub-paragraph (1)* contains the central definition of “SAYE option scheme”, set out earlier in section 516(4).

3253. *Sub-paragraph (2)* contains the definition of the word “participate”, and derives from paragraph 26 of Schedule 9 to ICTA. This sub-paragraph also introduces the term “scheme organiser”. It is preferable to the term “grantor” (the term used in ICTA) as the company that sets up the scheme does not have to be the person who actually grants the option. There is also a definition of “participant”.

Paragraph 3: Group schemes

3254. This paragraph is concerned with group schemes, and derives from paragraph 1(3) and (4) of Schedule 9 to ICTA.

3255. *Sub-paragraph (1)* provides that a SAYE option scheme established by a company that controls other companies (a “parent company”) may extend to all or any of those other companies. If the scheme does so extend, it is called a “group scheme”, as before (see *sub-paragraph (2)*).

3256. In *sub-paragraph (3)*, the term “constituent company” replaces the term “participating company”. This change, which reflects corresponding changes made in Schedules 2

*These notes refer to the Income Tax (Earnings and Pensions)
Act 2003 (c.1) which received Royal Assent on 6th March 2003*

and 4, has been made on the basis that these Schedules necessarily make numerous references to “participants” and to people who “participate”, so that the use of another term is advantageous.

- 3257. ESC B27 enables certain jointly owned companies to participate in group schemes. *Sub-paragraph (4)* is a signpost to paragraph 46, which gives statutory effect to that concession.
- 3258. In order to distinguish the meaning from more usual uses of “parent company”, the top company in a group scheme has the label “parent scheme company”.