

*Changes to legislation:* There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

#### <sup>F1</sup>... SAYE OPTION SCHEMES

##### Textual Amendments

- F1** Word in Sch. 3 title omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), Sch. 8 paras. 103, 146 (with Sch. 8 paras. 147-157)

#### PART 9

##### SUPPLEMENTARY PROVISIONS

###### *Power to require information*

- 45 <sup>F1</sup>(1) An officer of Revenue and Customs may by notice require a person to provide the officer with any information—
- (a) which the officer reasonably requires for the performance of any functions of Her Majesty's Revenue and Customs or an officer of Revenue and Customs under the SAYE code, and
  - (b) which the person to whom the notice is addressed has or can reasonably obtain.
- (2) The power conferred by this paragraph extends, in particular, to—
- (a) information to enable <sup>F2</sup>an officer of Revenue and Customs] —
    - <sup>F3</sup>(i) to check anything contained in a notice under paragraph 40A or a return under paragraph 40B or to check any information accompanying such a notice or return, or”, and]
    - (ii) to determine the liability to tax, including capital gains tax, of any person who has participated in a scheme [<sup>F4</sup>or any other person whose liability to tax the operation of a scheme is relevant to], and
  - (b) information about the administration of a scheme and any alteration of the terms of a scheme.
- (3) The notice must require the information to be provided within a specified time, which must not end earlier than 3 months after the date when the notice is given.]

##### Textual Amendments

- F1** Sch. 3 para. 45(1) substituted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 118(2), 146 (with Sch. 8 paras. 147-157)
- F2** Words in Act substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 102(1); S.I. 2005/1126, art. 2(2)(h)

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- F3** Sch. 3 para. 45(2)(a)(i) substituted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 118(3)(a), 146 (with Sch. 8 paras. 147-157)
- F4** Words in Sch. 3 para. 45(2)(a)(ii) inserted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 118(3)(b), 146 (with Sch. 8 paras. 147-157)

*Jointly owned companies*

- 46 (1) This paragraph applies for the purposes of the provisions of the SAYE code relating to group schemes.
- (2) Each joint owner of a jointly owned company is to be treated as controlling every company within sub-paragraph (3).
- (3) The companies within this sub-paragraph are—
- (a) the jointly owned company, and
  - (b) any company controlled by that company.
- (4) However, no company within sub-paragraph (3) may be—
- (a) a constituent company in more than one group scheme, or
  - (b) a constituent company in a particular group scheme if another company within that sub-paragraph is a constituent company in a different group scheme.
- (5) In this paragraph a “jointly owned company” means a company which (apart from sub-paragraph (2)) is not controlled by any one person and—
- (a) of which 50% of the issued share capital is owned by one person and 50% by another, or
  - (b) which is otherwise controlled by two persons taken together.
- (6) In this paragraph “joint owner” means one of the persons mentioned in sub-paragraph (5)(a) or (b).

*Meaning of “associated company”*

- 47 (1) For the purposes of the SAYE code, except in paragraph 35(3) (time when “scheme-related employment” ends), one company is an “associated company” of another company at a given time if, at that time or at any other time within one year previously—
- (a) one has control of the other, or
  - (b) both are under the control of the same person or persons.
- (2) For the purposes of sub-paragraph (1) the question whether a person controls a company is to be determined in accordance with [F5sections 450 and 451 of CTA 2010].

**Textual Amendments**

- F5** Words in Sch. 3 para. 47(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 397(5) (with Sch. 2)

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### *[<sup>F6</sup>Non-UK company reorganisation arrangements*

#### **Textual Amendments**

**F6** Sch. 3 para. 47A and cross-heading inserted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 119, 146 (with Sch. 8 paras. 147-157)

- 47A (1) For the purposes of the SAYE code a “non-UK company reorganisation arrangement” is an arrangement made in relation to a company under the law of a territory outside the United Kingdom—
- (a) which gives effect to a reorganisation of the company's share capital by the consolidation of shares of different classes, or by the division of shares into shares of different classes, or by both of those methods, and
  - (b) which is approved by a resolution of members of the company.
- (2) A resolution does not count for the purposes of sub-paragraph (1)(b) unless the members who vote in favour of approving the arrangement represent more than 50% of the total voting rights of all the members having the right to vote on the issue.]

### *Minor definitions*

- 48 (1) In the SAYE code—
- “[<sup>F7</sup>certified SAYE savings arrangement]” has the meaning given in [<sup>F8</sup>section 703(1) of ITTOIA 2005];
  - “company” means a body corporate;
  - “market value” has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act.
- (2) For the purposes of the SAYE code a company is a member of a consortium owning another company if it is one of a number of companies—
- (a) which between them beneficially own not less than 75% of the other company's ordinary share capital, and
  - (b) each of which beneficially owns not less than 5% of that capital.
- [<sup>F9</sup>(3) For the purposes of the SAYE code—
- (a) shares are subject to a “restriction” if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares, and
  - (b) the “restriction” is that provision.]

#### **Textual Amendments**

- F7** Words in Sch. 3 para. 48(1) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 618(11)(a) (with Sch. 2)
- F8** Words in Sch. 3 para. 48(1) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 618(11)(b) (with Sch. 2)
- F9** Sch. 3 para. 48(3) inserted (with effect in accordance with Sch. 2 para. 67 of the amending Act) by Finance Act 2013 (c. 29), Sch. 2 para. 65

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*Index of defined expressions*

49 In the SAYE code the following expressions are defined or otherwise explained by the provisions indicated below:

<b>F10</b>	<b>F10</b>
...	...
associated company	paragraph 47(1)
the bonus date	paragraph 30(3)
[ <sup>F11</sup> certified SAYE savings arrangement]	paragraph 48(1)
child	[ <sup>F12</sup> section 721(6)]
close company	[ <sup>F13</sup> section 989 of ITA 2007] <b>F14</b>
	...
company	paragraph 48(1)
connected person	section 718
constituent company	paragraph 3(3)
control	section 719 (and see paragraphs 35(4) and 47(2))
distribution	[ <sup>F15</sup> section 989 of ITA 2007]
earnings	section 62 and see section 721(7)
eligible shares (in Part 4 of this Schedule)	paragraph 17(2)
employee and employment	section 4
group scheme	paragraph 3(2) (and see paragraph 46)
<b>F16</b>	<b>F16</b>
...	...
<b>F17</b>	<b>F17</b>
...	...
market value	paragraph 48(1)
member of a consortium	paragraph 48(2)
[ <sup>F18</sup> non-UK company reorganisation arrangement]	paragraph 47A ]
notice	[ <sup>F19</sup> section 989 of ITA 2007]
the options (in relation to a participant)	paragraph 2(2)
ordinary share capital	[ <sup>F20</sup> section 989 of ITA 2007]
participant	paragraph 2(2)
participate	paragraph 2(2)

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personal representatives	[ <sup>F21</sup> section 989 of ITA 2007]
recognised stock exchange	[ <sup>F22</sup> section 1005 of ITA 2007]
[ <sup>F23</sup> restriction (in relation to shares)	paragraph 48(3)]
the SAYE code	section 516(3)
SAYE option scheme	section 516(4)
[ <sup>F18</sup> Schedule 3 SAYE option scheme	paragraph 1 and Part 8 of this Schedule]
the scheme organiser	paragraph 2(2)
share option	section 516(4)
shares	section 516(4)
F24	F24
...	...
F25	paragraph 31
...	
tax	[ <sup>F26</sup> section 989 of ITA 2007]
[ <sup>F27</sup> tribunal	section 989 of ITA 2007]
F28	F28
...	...

### Textual Amendments

- F10** Words in Sch. 3 para. 49 Table omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 8 paras. 120(a)**, 146 (with **Sch. 8 paras. 147-157**)
- F11** Words in Sch. 3 para. 49 substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 618(12)** (with Sch. 2)
- F12** Words in Sch. 3 para. 49 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 448(a)** (with Sch. 2)
- F13** Words in Sch. 3 para. 49 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 448(b)** (with Sch. 2)
- F14** Words in Sch. 3 para. 49 Table omitted (with effect in accordance with Sch. 2 para. 43 of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 2 para. 42**
- F15** Words in Sch. 3 para. 49 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 448(c)** (with Sch. 2)
- F16** Sch. 3 para. 49 entry repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 122(f), **Sch. 5**; S.I. 2005/1126, art. 2(2)(h)(i)
- F17** Sch. 3 para. 49 Table entry repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 448(d), **Sch. 3 Pt. 1** (with Sch. 2)
- F18** Words in Sch. 3 para. 49 Table inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 120(b)**, 146 (with **Sch. 8 paras. 147-157**)
- F19** Words in Sch. 3 para. 49 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 448(e)** (with Sch. 2)
- F20** Words in Sch. 3 para. 49 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 448(f)** (with Sch. 2)
- F21** Words in Sch. 3 para. 49 Table substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 448(g)** (with Sch. 2)

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- F22** Words in Sch. 3 para. 49 Table substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\)](#), [Sch. 1 para. 448\(h\)](#) (with [Sch. 2](#))
- F23** Words in Sch. 3 para. 49 Table inserted (with effect in accordance with Sch. 2 para. 67 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 66](#)
- F24** Words in Sch. 3 para. 49 Table omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 347\(2\)](#)
- F25** Words in Sch. 3 para. 49 Table omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 13](#) (with [Sch. 2 paras. 16, 17](#))
- F26** Words in Sch. 3 para. 49 Table substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 397\(6\)](#) (with [Sch. 2](#))
- F27** Words in Sch. 3 para. 49 Table inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 347\(3\)](#)
- F28** Sch. 3 para. 49 Table entry repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 448\(j\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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