

SCHEDULES

SCHEDULE 6

CONSEQUENTIAL AMENDMENTS

PART 1

INCOME AND CORPORATION TAXES ACT 1988

- 1 The Income and Corporation Taxes Act 1988 (c. 1) is amended as follows.
- 2 (1) Amend section 1 (the charge to income tax) as follows.
- (2) For subsection (1) substitute—
- “(1) Income tax is charged in accordance with the Income Tax Acts on—
- (a) all amounts which, under those Acts, are charged to tax under any of Schedules A, D and F (set out in sections 15, 18 and 20),
- (b) all amounts which are charged to tax under any of the following provisions of ITEPA 2003—
- (i) Part 2 (employment income),
- (ii) Part 9 (pension income), and
- (iii) Part 10 (social security income), and
- (c) any other amounts which, under the Income Tax Acts, are charged to income tax.”
- (3) In subsection (5A) for “section 203” substitute “PAYE regulations”.
- 3 In section 4(1) (construction of references in Income Tax Acts to deduction of tax) for “in pursuance of section 203” substitute “under PAYE regulations”.
- 4 In section 9(3) (computation of income for corporation tax: application of income tax principles)—
- (a) for “the like Schedules and Cases as apply for purposes of income tax” substitute—
- “(a) Schedules A, D and F, and the Cases of those Schedules, as they apply for purposes of income tax, and
- (b) the following provisions of ITEPA 2003 (which impose charges to income tax)—
- (i) Part 2 (employment income),
- (ii) Part 9 (pension income), and
- (iii) Part 10 (social security income),” and
- (b) after “those Schedules and Cases” insert “and those Parts”.
- 5 (1) Amend section 18 (Schedule D) as follows.

- (2) In subsection (1), in paragraph (b) of Schedule D, for “or E” substitute “or under ITEPA 2003 as employment income, pension income or social security income”.
- (3) In subsection (3)—
- (a) in Case V for “income consisting of emoluments of any office or employment” substitute “employment income, pension income or social security income on which tax is charged under ITEPA 2003”;
 - (b) in Case VI for “or E” substitute “or by virtue of ITEPA 2003 as employment income, pension income or social security income”.
- 6 Omit section 19 (Schedule E).
- 7 In section 21A(2) (computation of amount chargeable)—
- (a) for “sections 588 and 589” substitute “section 588”;
 - (b) for “sections 589A and 589B” substitute “section 589A”;
 - (c) for “1989 (deductions in respect of certain emoluments)” substitute “1989 (Schedule D: computation)”.
- 8 Omit section 58 (foreign pensions).
- 9 In section 65(2) (Cases IV and V assessments: general) omit “Subject to section 330,”.
- 10 After section 68 insert—

“68A Share incentive plans: application of section 68B

- (1) Section 68B applies for income tax purposes in connection with shares awarded under an approved share incentive plan.
- (2) But that section does not apply to an individual if, at the time of the award of shares in question—
 - (a) the earnings from the eligible employment are not (or would not be if there were any) general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 apply, or
 - (b) in the case of an award made before 6th April 2003, he was not chargeable to tax under Schedule E in respect of the employment by reference to which he met the requirement of paragraph 14 of Schedule 8 to the Finance Act 2000 (employee share ownership plans: the employment requirement) in relation to the plan.
- (3) For the purposes of subsection (2)(a)—
 - (a) “the eligible employment” means the employment which results in the individual meeting the employment requirement in relation to the plan, and
 - (b) the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 has the same meaning as it has in the employment income Parts of that Act (see sections 14(3) and 20(3) of that Act).

68B Share incentive plans: cash dividends and dividend shares

- (1) Where a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested), the

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participant is chargeable to tax on the amount paid over, to the extent that it represents a foreign cash dividend, under Case V of Schedule D for the year of assessment in which the dividend is paid over to the participant.

- (2) If dividend shares cease to be subject to the plan before the end of the period of three years beginning with the date on which the shares were acquired on the participant's behalf, the participant is chargeable to tax on the amount of the relevant dividend, to the extent that it represents a foreign cash dividend, under Case V of Schedule D for the year of assessment in which the shares cease to be subject to the plan.

For this purpose “the relevant dividend” is the cash dividend applied to acquire those shares on the participant's behalf.

- (3) Where the participant is charged to tax under subsection (2) the tax due shall be reduced by the amount or aggregate amount of any tax paid on any capital receipts under section 501 of ITEPA 2003 in respect of those shares.
- (4) Subsection (2) has effect subject to section 498 of that Act (no charge on shares ceasing to be subject to plan in certain circumstances).

68C Share incentive plans: interpretation

- (1) Sections 68A and 68B and this section form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in those sections and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) In section 68B, “foreign cash dividend” means a cash dividend paid in respect of plan shares in a company not resident in the United Kingdom.”

- 11 (1) Amend section 84A (costs of establishing share option or profit sharing schemes: relief from corporation tax) as follows.

- (2) After subsection (3) insert—

“(3A) In this section, “share option scheme” means—

- (a) an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of ITEPA 2003 (approved SAYE option schemes)),
or
(b) a CSOP scheme within the meaning of the CSOP code (see section 521(4) of that Act (approved CSOP schemes)).”

- (3) In subsection (4), at the end add “to this Act or under Schedule 3 or 4 to ITEPA 2003 (approved SAYE option schemes and approved CSOP schemes)”.

- 12 After section 85A insert—

“85B Approved share incentive plans

Schedule 4AA (which provides for deductions relating to approved share incentive plans) shall have effect.”

- 13 (1) Amend section 86A (charitable donations: contributions to agent's expenses) as follows.

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- (2) In subsection (1)(a) for “by virtue of section 203 and regulations under that section” substitute “under PAYE regulations”.
- (3) In subsection (1)(b) for the words from “a scheme” to the end of the paragraph substitute “an approved scheme and pays the sums to an approved agent”.
- (4) After subsection (1) insert—
 - “(1A) In subsection (1)(b) “approved scheme” and “approved agent” have the same meaning as in section 714 of ITEPA 2003.”
- 14 Omit sections 131 to 134 (miscellaneous provisions relating to the Schedule E charge).
- 15 Omit sections 135 to 137 (provisions relating to gains by directors and employees from share options).
- 16 (1) Amend section 138 (share acquisitions by directors and employees) as follows.
 - (2) In subsection (1)(b) for “Schedule E” substitute “the employment income Parts of ITEPA 2003”.
 - (3) In subsection (4)(b) for “Case I of Schedule E” substitute “section 15 or 21 of ITEPA 2003 (earnings of employee resident and ordinarily resident in the UK)”.
- 17 Omit section 140 (further interpretation of sections 135 to 139).
- 18 Omit sections 140A to 140H (further provisions relating to share acquisitions by directors and employees).
- 19 Omit sections 141 to 144 (vouchers and credit-tokens).
- 20 Omit section 144A (payments received free of tax).
- 21 Omit sections 145 to 147 (living accommodation).
- 22 Omit sections 148 to 151A (payments on retirement, sick pay and certain social security benefits).
- 23 For the sidenote to section 152 (notification of amount taxable under section 151) substitute “Notification of taxable amount of certain benefits”.
- 24 Omit sections 153 to 159AC and sections 160 to 168G (employees earning £8,500 or more and directors: expenses and benefits in kind).
- 25 Omit section 185 (approved share option schemes).
- 26 (1) Amend section 186 (approved profit sharing schemes) as follows.
 - (2) In subsection (3)—
 - (a) omit “the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the entitlement arises on”, and
 - (b) at the end add “counts as employment income of the participant for the year of assessment in which the entitlement arises”.
 - (3) In subsection (4)—
 - (a) omit “the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the disposal takes place on”, and
 - (b) at the end add “counts as employment income of the participant for the year of assessment in which the disposal takes place”.

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- (4) In subsection (5)(a), for the words from “chargeable to income tax” to “those shares” substitute “entitled to a capital receipt (within the meaning of subsection (3) above) which is referable to those shares and—
- (i) an amount calculated by reference to that capital receipt counts as his employment income by virtue of subsection (3) above, or
 - (ii) if the entitlement to the capital receipt arose before 6th April 2003, he was chargeable to income tax by virtue of that subsection (as it had effect before that date) in respect of that capital receipt,”.
- 27 In section 187 (interpretation of sections 185 and 186 and Schedules 9 and 10) omit subsections (1) to (4), (6) and (7), except so far as relating to profit sharing schemes.
- 28 Omit the following provisions (which give relief from income tax on various kinds of income)—
- (a) section 187A;
 - (b) sections 189 to 198;
 - (c) sections 199 to 202.
- 29 Omit sections 202A and 202B (assessment on receipts basis).
- 30 Omit sections 203 to 204 (pay as you earn).
- 31 Omit sections 205 and 206 (assessments).
- 32 Omit section 206A (PAYE settlement agreements).
- 33 Omit section 207 (disputes as to domicile or ordinary residence).
- 34 After section 251 insert—

“Approved share incentive plans

251A Application of sections 251B and 251C

- (1) Sections 251B and 251C apply for income tax purposes in connection with shares awarded under an approved share incentive plan.
- (2) But those sections do not apply to an individual if, at the time of the award of shares in question—
 - (a) the earnings from the eligible employment are not (or would not be if there were any) general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 apply, or
 - (b) in the case of an award made before 6th April 2003, he was not chargeable to tax under Schedule E in respect of the employment by reference to which he met the requirement of paragraph 14 of Schedule 8 to the Finance Act 2000 (employee share ownership plans: the employment requirement) in relation to the plan.
- (3) For the purposes of subsection (2)—
 - (a) “the eligible employment” means the employment which results in the individual meeting the employment requirement in relation to the plan, and

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- (b) the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 has the same meaning as it has in the employment income Parts of that Act (see sections 14(3) and 20(3) of that Act).

251B Treatment of cash dividend retained and then later paid out

- (1) Where a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested), the participant is chargeable to tax on the appropriate amount under Schedule F for the year of assessment in which the dividend is paid over.
- (2) In subsection (1), the “appropriate amount” means the amount of the dividend paid over (except to the extent that it represents a foreign cash dividend).
- (3) For the purposes of determining the tax credit (if any) to which the participant is entitled under section 231, the reference in subsection (1) of that section to the tax credit fraction in force when the distribution is made shall be read as a reference to the fraction in force when the dividend is paid over to the participant.

251C Charge on dividend shares ceasing to be subject to plan

- (1) If dividend shares cease to be subject to the plan before the end of the period of three years beginning with the date on which the shares were acquired on the participant’s behalf, the participant is chargeable to tax on the appropriate amount under Schedule F for the year of assessment in which the shares cease to be subject to the plan.
- (2) In subsection (1) “the appropriate amount” means the amount of the cash dividend applied to acquire the shares on the participant’s behalf (except to the extent that it represents a foreign cash dividend).
- (3) For the purposes of determining the tax credit (if any) to which the participant is entitled under section 231, the reference in subsection (1) of that section to the tax credit fraction in force when the distribution is made shall be read as a reference to the fraction in force when the shares cease to be subject to the plan.
- (4) Where the participant is charged to tax under this section the tax due shall be reduced by the amount or aggregate amount of any tax paid on any capital receipts under section 501 of ITEPA 2003 in respect of those shares.
- (5) In subsection (4) “the tax due” means the amount of tax due after deduction of the tax credit determined under subsection (3).
- (6) This section has effect subject to section 498 of ITEPA 2003 (no charge on shares ceasing to be subject to plan in certain circumstances).

251D Interpretation of sections 251A to 251C

- (1) Sections 251A to 251C and this section form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).

- (2) Accordingly, expressions used in those sections and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) In sections 251B and 251C “foreign cash dividend” means a cash dividend paid in respect of plan shares in a company not resident in the United Kingdom.”
- 35 In section 257C(2A) (indexation of amounts in sections 257 and 257A) for “section 203” substitute “PAYE regulations”.
- 36 After section 266 insert—

“266A Life assurance premiums paid by employer

- (1) This section applies if—
- (a) pursuant to a non-approved retirement benefits scheme, the employer in any year of assessment pays a sum with a view to the provision of any relevant benefits for or in respect of any employee of that employer, and
 - (b) the payment is made under such an insurance or contract as is mentioned in section 266.

This section applies whether or not the accrual of the relevant benefits is dependent on any contingency.

- (2) Relief, if not otherwise allowable, shall be given to that employee under section 266 in respect of the payment to the extent, if any, to which such relief would have been allowable to him if—
- (a) the payment had been made by him, and
 - (b) the insurance or contract under which the payment is made had been made with him.
- (3) For the purposes of subsection (1)(a)—
- (a) a retirement benefits scheme is “non-approved” unless it is—
 - (i) an approved scheme,
 - (ii) a relevant statutory scheme, or
 - (iii) a scheme set up by a government outside the United Kingdom for the benefit of its employees or primarily for their benefit, and
 - (b) benefits are provided in respect of an employee if they are provided for the employee’s spouse, widow or widower, children, dependants or personal representatives.
- (4) Sections 611, 611A and 612 apply for the purposes of this section as they apply for the purposes of Chapter 1 of Part 14.
- (5) Section 388 of ITEPA 2003 (apportionment of payments in respect of more than one employee) applies in relation to a sum within subsection (1) as it applies in relation to a sum within section 386 of that Act (charge on payments to non-approved retirement benefits schemes).
- (6) This section does not apply in any case where either of the following provisions of ITEPA 2003 provides for section 386 of that Act not to apply—

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- (a) section 389 (employments where earnings charged on remittance basis), and
 - (b) section 390 (non-domiciled employees with foreign employers)."
- 37 In section 306(7) (claims) for "regulations made under section 203" substitute "PAYE regulations".
- 38 In section 307(6)(a)(i) (withdrawal of relief) for "regulations under section 203" substitute "PAYE regulations".
- 39 Omit section 313 (taxation of consideration for certain restrictive undertakings).
- 40 In section 314(1) (divers and diving supervisors) for the words from "and accordingly" to the end of the subsection substitute "and accordingly any employment income taken into account in computing the profits or gains of that trade is not chargeable under Part 2 of ITEPA 2003."
- 41 Omit sections 315 to 318 (pensions etc. paid in respect of military or war service etc.).
- 42 Omit section 319 (crown servants: foreign service allowance).
- 43 Omit section 321 (consuls and other official agents).
- 44 (1) Amend section 322 (consular officers and employees) as follows.
 - (2) In subsection (1) for "any income of his falling within Case IV or V of Schedule D" substitute "any qualifying income of the consular officer or employee".
 - (3) After subsection (1) insert—
 - "(1A) In subsection (1) "qualifying income" means—
 - (a) income falling within Case IV or V of Schedule D,
 - (b) income to which section 573 or 629 of ITEPA 2003 applies (foreign pensions and pre-1973 pensions paid under the Overseas Pensions Act 1973),
 - (c) income arising from a source outside the United Kingdom to which section 609, 610, 611 or 633 of ITEPA 2003 applies (certain employment-related annuities and voluntary annual payments), and
 - (d) a benefit to which section 678 of ITEPA applies (foreign benefits)."
 - (4) Omit subsection (2).
- 45 (1) Amend section 323 (visiting forces) as follows.
 - (2) Omit subsection (1).
 - (3) In subsection (2) for "subsection (1) above" substitute "section 303(1) of ITEPA 2003 (exemption for earnings of visiting forces etc.)".
 - (4) In subsection (4)—
 - (a) for "subsections (1) and (2)" substitute "subsection (2)";
 - (b) for "those subsections" substitute "that subsection";
 - (c) before "the Visiting Forces Act 1952" insert "Part 1 of".
 - (5) In subsection (5) for "subsections (1) and (2)" substitute "subsection (2)".
 - (6) Omit subsection (6)(b) and the word "and" preceding it.

- (7) Omit subsection (7).
- 46 Omit section 330 (compensation for National-Socialist persecution).
- 47 (1) Amend section 332 (expenditure and houses of ministers of religion) as follows.
- (2) Omit subsections (1) and (2).
- (3) In subsection (3)—
- (a) for “(whether under Schedule E or any other Schedule)” substitute “under Schedule D”,
 - (b) for “profits, fees or emoluments” substitute “profits or fees”, and
 - (c) in paragraph (c), for the words from “in right of” to “that subsection” substitute “an interest belongs to a charity or ecclesiastical corporation and, in right of that interest, in which he has a residence from which to perform his duties as a clergyman or minister”.
- (4) Omit subsections (3A), (3B) and (4).
- 48 (1) Amend section 336 (temporary residents in the United Kingdom) as follows.
- (2) In subsection (1) for “Schedule D” substitute “a charge to which subsection (1A) applies”.
- (3) After subsection (1) insert—
- “(1A) This subsection applies to—
- (a) the charge under Schedule D,
 - (b) the charge under Part 9 of ITEPA 2003 (pension income) in respect of—
 - (i) income to which section 573, 605, 609, 610, 611, 623 or 629 of that Act applies,
 - (ii) any annual payment to which section 633 of that Act applies which is made by or on behalf of a person who is outside the United Kingdom, or
 - (iii) income to which section 583 of that Act applies if the paying scheme (see subsection (3) of that section) is a pilots' benefit fund (see section 587 of that Act), and
 - (c) the charge under Part 10 of ITEPA 2003 (social security income) in respect of benefits to which section 678 of that Act applies (foreign benefits).”
- 49 In section 347A(5) (annual payments: general rule) for “, 68(1)(b) or 192(3)” substitute “or 68(1)(b) of this Act or section 355 of ITEPA 2003 (deductions for certain payments by non-domiciled employees with foreign employers)”.
- 50 (1) Amend section 348 (payments out of profits or gains brought into charge to income tax: deduction of tax) as follows.
- (2) In subsection (1) for “charged with tax under Case III of Schedule D, not being interest,” substitute “to which this subsection applies”.
- (3) After subsection (1) insert—
- “(1A) Subsection (1) applies to any annuity or other annual payment, not being interest—

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- (a) which is charged with tax under Case III of Schedule D,
 - (b) which is charged with tax under Part 9 of ITEPA 2003 (pension income) because section 605 of that Act applies to it (retirement annuity contracts: annuities), or
 - (c) which arises from a source in the United Kingdom and is charged with tax under Part 9 of ITEPA 2003 because section 609, 610 or 611 of that Act applies to it (certain employment-related annuities).”
- 51 (1) Amend section 349 (payments not out of profits or gains brought into charge to income tax, and annual interest) as follows.
 - (2) In subsection (1)(a) for “charged with tax under Case III of Schedule D, not being interest” substitute “to which this paragraph applies”.
 - (3) After the first sentence of subsection (1) insert—
 - “(1A) Paragraph (a) of subsection (1) applies to any annuity or other annual payment, not being interest—
 - (a) which is charged with tax under Case III of Schedule D,
 - (b) which is charged with tax under Part 9 of ITEPA 2003 (pension income) because section 605 of that Act applies to it, or
 - (c) which arises from a source in the United Kingdom and is charged with tax under Part 9 of ITEPA 2003 because section 609, 610 or 611 of that Act applies to it.”
 - (4) Number the second sentence of subsection (1) as subsection (1B).
 - (5) In the new subsection (1B) for “This subsection” substitute “Subsection (1)”.
- 52 In section 376(2) (qualifying borrowers and qualifying lenders) for the words from “an office or employment” to “Schedule E” substitute “an office or employment which would, but for some special exemption or immunity from tax, be a taxable employment under Part 2 of ITEPA 2003 (as defined by section 66(3) of that Act)”.
- 53 In section 391(2) (losses from trade etc. carried on abroad) for “, 192(2), (3) or (4) or 196” substitute “of this Act or section 23, 355 or 615 of ITEPA 2003”.
- 54 (1) Amend section 392 (Case VI losses) as follows.
 - (2) For subsection (1)(a) and (b) substitute—
 - “(a) that the amount of the loss sustained by him shall, as far as may be, be deducted from or set off against the total of—
 - (i) the amount of any profits or gains arising from any transaction in respect of which he is assessed for that year under that Case, and
 - (ii) the amount of any qualifying income on which tax is charged under Part 9 of ITEPA 2003 (pension income) for that year, and
 - (b) that any portion of the loss for which relief is not so given shall, as far as may be, be carried forward and deducted from or set off against the total of—
 - (i) the amount of any profits or gains arising from any transaction in respect of which he is assessed under that Case for any subsequent year of assessment, and

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(ii) the amount of any qualifying income on which tax is charged under Part 9 of ITEPA 2003 for the subsequent year of assessment.”

(3) For subsection (3) substitute—

“(3) Any relief under this section by way of the carrying forward of the loss shall be given as far as possible from the first subsequent assessment in respect of—

- (a) any profits or gains arising from any transaction in respect of which he is assessed under Case VI of Schedule D for any year, or
- (b) any qualifying income on which tax is charged under Part 9 of ITEPA 2003 for any year,

and so far as it cannot be so given, then from the next such assessment, and so on.”

(4) After subsection (5) insert—

“(6) For the purposes of subsection (1)(a)(ii) and (b)(ii) and subsection (3)(b) income is “qualifying income” if—

- (a) section 583 of ITEPA 2003 applies to it and the paying scheme (see subsection (3) of that section) is a pilots' benefit fund (see section 587 of ITEPA 2003), or
- (b) section 623 of ITEPA 2003 applies to it.”

55 (1) Amend section 418 (“distribution” to include certain expenses of close companies) as follows.

(2) In subsection (3)(a)—

- (a) for “to which Chapter II of Part V applies” substitute “to which Part 3 of ITEPA 2003 applies (earnings and benefits etc. treated as employment income) without the exclusion in section 216 of that Act (provisions not applicable to lower-paid employment)”; and
- (b) for “sections 154 to 165” substitute “Chapters 6 to 10 of Part 3 and section 223 of that Act (cars and vans, loans, shares, other benefits, and payments on account of director’s tax)”.

(3) In subsection (3)(b) for “section 145” substitute “Chapter 5 of Part 3 of ITEPA 2003”.

(4) In subsection (4) for “Chapter II of Part V” substitute “Chapters 6 to 10 of Part 3 of ITEPA 2003”.

56 In section 545(1)(a) (capital redemption policies) after “Schedule D” insert “or under Part 9 of ITEPA 2003 (pension income) because section 609, 610 or 611 applies to them (certain employment-related annuities)”.

57 In section 550(7) (relief where gain charged at a higher rate) for “, 36 or 148” substitute “or 36 of this Act or any amount which counts as employment income under section 403 of ITEPA 2003 (payments and benefits on termination of employment etc.)”.

58 In section 559(1A) (sub-contractors in the construction industry) for “chargeable to income tax under Schedule E by virtue of section 134(1)” substitute “treated as earnings from an employment by virtue of Chapter 7 of Part 2 of ITEPA 2003 (agency workers)”.

- 59 In section 561(6) (exceptions from section 559), for “the same meaning as in
Chapter II of Part V” substitute “the meaning given by section 67 of ITEPA 2003”.
- 60 In section 565(2C)(a) (conditions to be satisfied by companies), for “the meaning of
Chapter II of Part V” substitute “the meaning given by section 67 of ITEPA 2003”.
- 61 In section 566(1) (general powers to make regulations under Chapter 4) for
“regulations may be made under section 203” substitute “PAYE regulations may
be made”.
- 62 (1) Section 577 (business entertaining expenses) is amended as follows.
(2) Omit subsection (1)(b) and the word “and” preceding it.
(3) In subsection (3) omit the words from “but where-” to the end of the subsection.
- 63 Omit section 579(1) (statutory redundancy payments).
- 64 Omit section 580(3) (provisions supplementary to section 579(1)).
- 65 In section 580A(7)(b) (relief from tax on annual payments under certain insurance
policies) for “Schedule E” substitute “Parts 3 to 7 (employment income) or Part 9
(pension income) of ITEPA 2003”.
- 66 (1) Amend section 585 (relief from tax on delayed remittances) as follows.
(2) In subsection (1) omit the words “, or under Case III of Schedule E,”.
(3) Omit subsection (9)(b) and the word “and” preceding it.
- 67 (1) Amend section 588 (training courses for employees) as follows.
(2) For subsections (1) and (2) substitute—
 “(1) This section applies where a person (“the employer”) incurs retraining
 course expenses within the meaning of section 311 of ITEPA 2003
 (exemptions: retraining courses).”
(3) For paragraphs (a) and (b) of subsection (3) substitute—
 “(a) an employer incurs expenditure in paying or reimbursing retraining
 course expenses as mentioned in subsection (1) above; and
 (b) by virtue of section 311 of ITEPA 2003, no liability to income tax
 arises in respect of the payment or reimbursement,”.
(4) Omit subsection (5)(a).
(5) In subsection (5)(b) for the words from “such a failure” to the end of the paragraph
substitute “a failure to meet a condition of the kind mentioned in section 312(1)(b)
(i) or (ii) of ITEPA 2003”.
(6) In subsection (6) for “comply with any provision of section 589(3) and (4)” substitute
“meet a condition in section 312(1)(b)(i) or (ii) of ITEPA 2003”.
- 68 Omit section 589 (qualifying courses of training etc.).
- 69 (1) Section 589A (counselling services for employees) is amended as follows.
(2) For subsection (1) substitute—
 “(1) This section applies where expenditure (“relevant expenditure”)—

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- (a) is incurred in the provision of services to a person (“the employee”) in connection with the cessation of the person’s office or employment, or
- (b) is incurred in the payment or reimbursement of—
 - (i) fees for such provision, or
 - (ii) travelling expenses incurred in connection with such provision,and (in either case) the relevant conditions are met.

(1A) In subsection (1) above “the relevant conditions” means—

- (a) conditions A to D for the purposes of section 310 of ITEPA 2003 (exemptions: counselling and other outplacement services), and
- (b) in the case of travel expenses, condition E for those purposes.”

(3) Omit—

- (a) subsections (2) to (6), and
- (b) subsection (10).

70 (1) Section 589B (qualifying counselling services etc.) is amended as follows.

(2) Omit subsections (1) to (4A).

(3) In subsection (5) omit “this section or”.

71 In section 591D (provisions supplementary to section 591C) omit subsection (6).

72 For section 592(7) (exempt approved schemes) substitute—

“(7) Any contribution paid under the scheme shall be allowed to be deducted from employment income for the year of assessment in which the contribution is paid.

A deduction under this subsection may only be made once in respect of the same contribution.”

73 In section 594(1) (exempt statutory schemes)—

- (a) for the words “shall, in assessing tax under Schedule E, be allowed to be deducted as an expense incurred in” substitute “shall be allowed to be deducted from employment income for”;
- (b) at the end insert—

“A deduction under this section may only be made once in respect of the same contribution.”

74 Omit sections 595 and 596 (payments by employer to retirement benefits scheme).

75 Omit sections 596A to 596C (benefits under non-approved retirement benefits schemes).

76 Omit section 597 (charge to tax: pensions).

77 In section 599A (charge to tax: payments out of surplus funds) omit subsections (5), (6) and (8).

78 Omit section 600 (charge to tax: unauthorised payments to or for employees).

79 (1) Amend section 606 (default of administrator of retirement benefits scheme) as follows.

- (2) In subsection (9) after “this Chapter” insert “or Chapter 2 of Part 6 of ITEPA 2003 (benefits from non-approved pension schemes)”.
- (3) In subsection (11)(b) after “this Chapter” insert “or Chapter 2 of Part 6 of ITEPA 2003 (benefits from non-approved pension schemes)”.
- 80 (1) Amend section 607 (marine pilots: pilots' benefit fund) as follows.
- (2) In subsection (2)(a) for “597 to 600” substitute “598 to 599A”.
- (3) In subsection (2)(b) for “under section 600” substitute “in accordance with section 584 of ITEPA 2003 (unauthorised payments)”.
- (4) For subsection (3)(a) substitute—
- “(a) in section 592—
- (i) subsections (4) to (6) shall be omitted; and
- (ii) for subsection (7) there shall be substituted—
- “(7) Any contribution paid under the scheme by a member of the fund shall, in assessing tax under Schedule D, be allowed to be deducted as an expense.”;
- (5) In subsection (3)(b) for “sections 597 to 606 (except sections 601 to 603)” substitute “sections 598 to 599A and sections 604 to 606”.
- (6) Omit subsection (3)(b)(iv) and the word “and” preceding it.
- 81 In section 608 (charge to tax on annuities paid out of superannuation funds approved before 6th April 1980) omit subsection (4).
- 82 In section 612(1) (interpretation etc. of Chapter) in the definition of “remuneration”—
- (a) in paragraph (a) for “in respect of which tax is chargeable under Schedule E and which” substitute “which is chargeable to tax as employment income and”; and
- (b) in paragraph (b) for “section 148” substitute “Chapter 3 of Part 6 of ITEPA 2003 (payments and benefits on termination of employment etc.)”.
- 83 In section 613 (Parliamentary pension funds) omit subsections (1) to (3).
- 84 In section 614(3) (exemptions and reliefs in respect of income tax from investments etc. of certain pension schemes) for “paragraph (b), (c), (d) or (f) of subsection (2) of section 615” substitute “section 648, 649, 650 or 651 of ITEPA 2003”.
- 85 In section 615 (exemption from tax in respect of certain pensions) omit subsections (1), (2), (4), (5) and (8).
- 86 Omit section 616 (other overseas pensions).
- 87 (1) Amend section 617 (social security benefits and contributions) as follows.
- (2) Omit subsections (1) and (2).
- (3) For subsection (4)(d) and (e) substitute—
- “(d) as a deduction under section 336 of ITEPA 2003 (deductions for expenses) from the taxable earnings from an office or employment; or

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- (e) as a deduction under section 332(3)(a) from the profits or fees of the profession or vocation of a minister of religion, or a deduction under section 351(1) of ITEPA 2003 from the taxable earnings from an employment as such a minister.”
- 88 Omit section 617A (tax credits under Part 1 of Tax Credits Act 2002 (c. 21)).
- 89 In section 624(2) (sponsored superannuation schemes and controlling directors) for “Case I of Schedule E in respect of his emoluments” substitute “section 15 of ITEPA 2003 in respect of his general earnings”.
- 90 (1) Amend section 638 (other restrictions on approval of a personal pension scheme) as follows.
 - (2) In subsection (7) for “emoluments” substitute “general earnings”.
 - (3) In subsection (11)—
 - (a) for “a savings-related share option scheme” substitute “an SAYE option scheme”, and
 - (b) for “an employee share ownership plan” substitute “a share incentive plan”.
 - (4) In subsection (12)—
 - (a) in paragraph (a), for “a savings-related share option scheme” substitute “an SAYE option scheme”, and
 - (b) in paragraph (b)—
 - (i) for “an employee share ownership plan” substitute “a share incentive plan”, and
 - (ii) for “employee share ownership plan”, in the second place in which it appears, substitute “share incentive plan”.
 - (5) In subsection (13)—
 - (a) omit the definition of “employee share ownership plan”, and
 - (b) for the definition of “savings-related share option scheme” substitute—

““SAYE option scheme” has the same meaning as in the SAYE code (see section 516 of ITEPA 2003 (approved SAYE option schemes)), and

“share incentive plan” has the same meaning as in the SIP code (see section 488 of that Act (approved share incentive plans)).”
- 91 (1) Section 643 (employer’s contributions and personal pension income etc.) is amended as follows.
 - (2) Omit subsection (1).
 - (3) In subsection (5) omit “shall be assessable to tax under Schedule E (and section 203 shall apply accordingly) and”.
- 92 (1) Amend section 644 (meaning of “relevant earnings”) as follows.
 - (2) In subsection (2)(a) for “emoluments chargeable under Schedule E” substitute “general earnings”.
 - (3) In subsection (2)(b) for “emoluments of” substitute “earnings from”.

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- (4) In subsection (3) for “emoluments”, in both places where it occurs, substitute “general earnings”.
 - (5) In subsection (4)(a) for “Schedule E” substitute “ITEPA 2003”.
 - (6) In subsection (4)(b) for “section 148” substitute “Chapter 3 of Part 6 of ITEPA 2003 (payments and benefits on termination of employment etc.)”.
 - (7) In each of the following provisions for “emoluments” substitute “general earnings”—
 - (a) subsection (5);
 - (b) subsection (6A);
 - (c) subsection (6D)(c);
 - (d) subsection (6E)(d).
- 93 (1) Amend section 645 (earnings from pensionable employment) as follows.
- (2) In subsection (3)(c) for “section 596(1)(a), (b) or (c)” substitute “section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme)”.
 - (3) In subsection (4A)—
 - (a) for “emoluments” substitute “earnings”;
 - (b) for “foreign emoluments within the meaning of section 192” substitute “earnings and amounts treated as earnings to which subsection (4B) applies”;
 - (c) for “section 596(1)(a), (b) or (c)” substitute “section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme)”.
 - (4) After subsection (4A) insert—
 - “(4B) This subsection applies to earnings and amounts treated as earnings for a year of assessment if—
 - (a) the employee or office-holder is not domiciled in the United Kingdom in that year, and
 - (b) the employment is with a foreign employer.
 - (4C) If there is a dispute as to whether the employee or office-holder is not domiciled in the United Kingdom, sections 42 and 43 of ITEPA 2003 (Board to determine dispute as to domicile) apply to the dispute as they apply to a dispute mentioned in section 42(1) of that Act.
 - (4D) In this section—
 - “earnings and amounts treated as earnings” means earnings and amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b) of ITEPA 2003);
 - “foreign employer” has the meaning given by section 721 of ITEPA 2003.”
- 94 In section 646(2) (meaning of “net relevant earnings”) for paragraph (b) substitute—
- “(b) deductions made by virtue of section 232, 336, 343, 344 or 351 of ITEPA 2003 (mileage allowance, expenses, professional membership fees, annual subscriptions, ministers of religion);
 - (ba) travelling or subsistence expenses deducted by virtue of Part 5 of that Act;

- (bb) deductions made by virtue of section 332(3) of this Act;”.
- 95 (1) Amend section 646A (earnings from associated employments) as follows.
- (2) In subsection (2) for “emoluments” substitute “general earnings”.
- (3) In subsection (3) for “emoluments” substitute “general earnings”.
- 96 Omit sections 647 to 648A (personal pensions: unauthorised payments, contributions under unapproved arrangements and annuities).
- 97 In section 657(2)(f)(i) (purchased life annuities to which section 656 applies) for “section 596(1)” substitute “section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme)”.
- 98 In section 658A(1) (charges and assessments on administrators) after “this Part” insert “or under section 394(2) of ITEPA 2003 (benefits from non-approved pension schemes)”.
- 99 (1) Amend section 659B (definition of insurance company) as follows.
- (2) For subsection (9)(a) substitute—
- “(a) any duty to pay under PAYE regulations tax charged under Part 9 of ITEPA 2003 (pension income) because section 580 of that Act applies (approved retirement benefits schemes: pensions and annuities);”.
- (3) In subsection (9)(c) after “section 605” insert “of this Act or section 589 of ITEPA 2003”.
- (4) For subsection (9)(d) substitute—
- “(d) any duty to pay under PAYE regulations tax charged under Part 9 of ITEPA 2003 (pension income) because section 595 of that Act applies (approved personal pension schemes: annuities).”
- 100 After section 686A insert—

“686B Share incentive plans: distributions in respect of unappropriated shares

- (1) This section applies to income of the trustees of an approved share incentive plan consisting of dividends or other distributions in respect of shares held by them in relation to which the requirements of Part 4 of Schedule 2 to ITEPA 2003 (approved share incentive plans: types of shares that may be awarded) are met.
- (2) Income to which this section applies is income to which section 686 applies only if and when—
- (a) the period applicable to the shares under the following provisions of this section comes to an end without the shares being awarded to a participant in accordance with the plan, or
- (b) if earlier, the shares are disposed of by the trustees.
- (3) If any of the shares in the company in question are readily convertible assets at the time the shares are acquired by the trustees, the period applicable to the shares is the period of two years beginning with the date on which the shares were acquired by the trustees.

This is subject to subsection (5).

- (4) If at the time of the acquisition of the shares by the trustees none of the shares in the company in question are readily convertible assets, the period applicable to the shares is—
- (a) the period of five years beginning with the date on which the shares were acquired by the trustees, or
 - (b) if within that period any of the shares in that company become readily convertible assets, the period of two years beginning with the date on which they did so,

whichever ends first.

This is subject to subsection (5).

- (5) If the shares are acquired by the trustees by virtue of a payment in respect of which a deduction is allowed under paragraph 9 of Schedule 4AA (deduction for contribution to plan trust), the period applicable to the shares is the period of ten years beginning with the date of acquisition.
- (6) For the purposes of determining whether shares are awarded to a participant within the period applicable under the above provisions, shares acquired by the trustees at an earlier time are taken to be awarded to a participant before shares of the same class acquired by the trustees at a later time.
- (7) For the purposes of this section shares which are subject to provision for forfeiture are treated as acquired by the trustees if and when the forfeiture occurs.
- (8) In relation to shares acquired by the trustees before 11th May 2001 this section has effect with the substitution—
- (a) in subsection (3), of “Subject to subsection (4)” for the words before “the period applicable”, and
 - (b) in subsection (4)(b), of “the shares in question” for “any of the shares in that company”.

686C Interpretation of section 686B

- (1) Section 686B and this section form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in section 686B or this section and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) References in section 686B to shares being awarded to a participant include references to the shares being acquired on behalf of the participant as dividend shares.
- (4) In section 686B, “readily convertible assets” has the meaning given by sections 701 and 702 of ITEPA 2003, but this is subject to subsection (5).
- (5) In determining for the purposes of section 686B whether shares are readily convertible assets, any market for the shares that—
- (a) is created by virtue of the trustees acquiring shares for the purposes of the plan, and
 - (b) exists solely for the purposes of the plan,

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shall be disregarded.”

- 101 In section 779(13)(e) (sale and lease-back: limitation on tax reliefs), for “a deduction from emoluments to be assessed under Schedule E made in pursuance of section 198(1)” substitute “a deduction from earnings allowed under section 336 of ITEPA 2003 (expenses)”.
- 102 In section 781(4)(d) (assets leased to traders and others), for “a deduction from emoluments to be assessed under Schedule E made in pursuance of section 198(1)” substitute “a deduction from earnings allowed under section 336 of ITEPA 2003 (expenses)”.
- 103 In section 794(2)(b) (requirements as to residence) for “income tax chargeable under Schedule E” substitute “income tax on employment income”.
- 104 In section 824(4A) (repayment supplement: individuals and others) for “section 203” substitute “PAYE regulations”.
- 105 (1) Amend section 828 (orders and regulations made by the Treasury or the Board) as follows.
- (2) In subsection (1), for “subsection (2)” substitute “subsections (2) and (5)”.
- (3) In subsection (3), for “subsection (4)” substitute “subsections (4) and (5)”.
- (4) At the end add—
- “(5) Nothing in this section applies in relation to any of the following (in relation to which section 717 of ITEPA 2003 applies)—
- (a) any power of the Treasury or the Board to make any order or regulations under ITEPA 2003;
- (b) any statutory instrument containing any order or regulations made by the Treasury or the Board under that Act.”
- 106 In section 830 (territorial sea and designated areas) omit subsection (5).
- 107 In section 831(3) (interpretation of ICTA) before the entry relating to “the Management Act” insert—
- ““ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003;”.
- 108 (1) Amend section 833 (interpretation of Income Tax Acts) as follows.
- (2) For subsection (3)(a) substitute—
- “(a) any payment or other benefit charged to tax under Chapter 3 of Part 6 of ITEPA 2003 (payments and other benefits on termination of employment);”.
- (3) For subsection (4)(a) and (b) substitute—
- “(a) any income charged to tax under ITEPA 2003 except—
- (i) payments that meet the conditions in section 623 of that Act (return of surplus employee additional voluntary contributions); and
- (ii) jobseeker’s allowance (to which Chapter 3 of Part 10 of that Act applies);
- (b) any income from any property which is attached to or forms part of the general earnings from any employment;”.

- (4) For paragraphs (a) to (e) of subsection (5) substitute “income which is earned income by virtue of section 529”.

109 After Schedule 4 insert—

**“SCHEDULE
4AA**

Section 85B

SHARE INCENTIVE PLANS: CORPORATION TAX DEDUCTIONS

Introductory

- 1 (1) This Schedule forms part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in this Schedule and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) References in this Schedule to deductions are to deductions by a company in calculating for the purposes of corporation tax the profits of a trade carried on by it.
- (4) Sub-paragraph (3) is subject to paragraph 13 (application of provisions to expenses of management of investment companies etc.).

Deduction for providing free or matching shares

- 2 (1) Where, under an approved share incentive plan, shares are awarded to employees as free or matching shares by reason of their employment with a company, a deduction is allowed under this paragraph to that company.
- (2) Any such deduction—
 - (a) is of an amount equal to the market value of the shares at the time they are acquired by the trustees, and
 - (b) must be made for the period of account in which the shares are awarded to employees in accordance with the plan.
- (3) Except as provided by sub-paragraph (1), no deduction may be made by the company or any associated company in respect of the provision of those shares.

 This is subject to paragraphs 7 and 8 (deductions for costs of setting up, and contributions to running expenses of, plan).
- (4) Where the shares are awarded under a group plan, the market value of the shares at the time they are acquired by the trustees shall for the purposes of this paragraph be taken to be the relevant proportion of the total market value of the shares included in the award.
- (5) For the purposes of sub-paragraph (4) “the relevant proportion” means the proportion that the number of shares in the award awarded to the employees of the company concerned bears to the total number of shares in the award.

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- (6) In determining the market value of any shares for the purposes of this paragraph, if shares have been acquired by the trustees on different days it shall be assumed that those acquired on an earlier day are awarded to employees under the plan before those acquired by the trustees on a later day.
- (7) If a deduction is made under this paragraph by a company, no deduction may be made by any other company under this paragraph in respect of the provision of the shares.
- (8) This paragraph has effect subject to paragraph 4 (cases in which no deduction is allowed).

Deduction for additional expenses in providing partnership shares

- 3 (1) Where under an approved share incentive plan—
 - (a) partnership shares are awarded to employees by reason of their employment with a company, and
 - (b) the market value of those shares at the time they are acquired by the trustees exceeds the partnership share money paid by the participants to acquire those shares,a deduction is allowed under this paragraph to that company.
- (2) Any such deduction—
 - (a) is of an amount equal to the amount of the excess referred to in sub-paragraph (1)(b), and
 - (b) must be made for the period of account in which the shares are awarded to employees in accordance with the plan.
- (3) Except as provided by sub-paragraph (1), no deduction may be made by that company or any associated company in respect of the provision of those shares.

This is subject to paragraphs 7 and 8 (deductions for costs of setting up, and contributions to running expenses of, plan).
- (4) If a deduction is made under this paragraph by a company, no deduction may be made by any other company under this paragraph in respect of the provision of the shares.
- (5) This paragraph has effect subject to paragraph 4 (cases in which no deduction is allowed).

Cases in which no deduction is allowed

- 4 (1) No deduction is allowed under paragraph 2 or 3 (deductions for providing free or matching shares or for additional expenses in providing partnership shares) in the following cases.
- (2) No deduction is allowed in respect of shares awarded to an individual under the plan unless, at the time of the award, any earnings from the required employment are (or would be) chargeable earnings.
- (3) In sub-paragraph (2)—

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“chargeable earnings” means general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 apply, and

the “required employment” means the employment by reference to which the individual is eligible to participate in the award.

- (4) In sub-paragraph (3), the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of that Act has the same meaning as it has in the employment income Parts of ITEPA 2003 (see sections 14(3) and 20(3) of that Act).
- (5) No deduction is allowed in respect of shares that are liable to depreciate substantially in value for reasons that do not apply generally to shares in the company.
- (6) No deduction is allowed if a deduction has been made—
 - (a) by the company, or
 - (b) by an associated company of the company,
 in respect of the provision of the same shares for this or another trust.
- (7) Sub-paragraph (6) applies whatever the nature or purpose of the other trust and whatever the basis on which the deduction was made.
- (8) For the purposes of determining whether the same shares have been provided to more than one trust, if shares have been acquired by the trustees of the plan trust on different days it shall be assumed that those acquired on an earlier day are awarded under the plan before those acquired by the trustees on a later day.
- (9) No deduction is allowed in respect of the award of shares acquired by the trustees by virtue of a payment in respect of which a deduction has been made under paragraph 9 (deduction for contribution to plan trust) or 10(3) (further deduction where deduction under paragraph 9 withdrawn).

No deduction for expenses in providing dividend shares

- 5 (1) No deduction is allowed for expenses in providing shares that are acquired on behalf of individuals under an approved share incentive plan as dividend shares.
- (2) This is subject to paragraph 8 (deductions for contributions to running expenses of plan).

Treatment of forfeited shares

- 6 (1) This paragraph applies if any of a participant’s plan shares are forfeited.
- (2) The shares are treated for the purposes of this Schedule as acquired by the trustees—
 - (a) when the forfeiture occurs, and
 - (b) for no consideration.

- (3) No deduction is allowed under paragraph 2 or 3 (deductions for providing free or matching shares or for additional expenses in providing partnership shares) in respect of any subsequent award of those shares under the plan.

Deduction for costs of setting up the plan

- 7 (1) A deduction is allowed under this paragraph for expenses incurred by a company in establishing a share incentive plan which is approved by the Inland Revenue.
- (2) No deduction may be made under this paragraph if—
- (a) any employee acquires rights under the plan, or
 - (b) the trustees acquire any shares for the purposes of the plan, before the Inland Revenue approve the plan.
- (3) If Inland Revenue approval of the plan is given more than nine months after the end of the period of account in which the expenses are incurred, the expenses are treated for the purposes of this paragraph as incurred in the period in which the approval is given.
- (4) No other deduction is allowed in respect of expenses for which a deduction is allowed under this paragraph.

Deductions for contributions to running expenses of plan

- 8 (1) Nothing in this Schedule affects any deduction for expenses incurred by a company in contributing to the expenses of the trustees in operating an approved share incentive plan.
- (2) For this purpose the expenses of the trustees in operating the plan—
- (a) do not include expenses in acquiring shares for the purposes of the trust, other than incidental acquisition costs, but
 - (b) do include the payment of interest on money borrowed by them for that purpose.
- (3) In sub-paragraph (2)(a) “incidental acquisition costs” means any fees, commission, stamp duty and similar incidental costs attributable to the acquisition of the shares.

Deduction for contribution to plan trust

- 9 (1) A deduction is allowed to a company under this paragraph where—
- (a) on or after 6th April 2003, that company makes a payment to the trustees of an approved share incentive plan in order to enable them to acquire shares in that company or a company which controls it,
 - (b) the payment is applied by the trustees to acquire such shares,
 - (c) the shares are not acquired from a company, and
 - (d) the condition in sub-paragraph (2) is met in relation to the company in which the shares are acquired.

- (2) The condition in this sub-paragraph is that, at the end of the period of 12 months beginning with the date of the acquisition, the trustees hold shares in the company for the plan trust that—
 - (a) constitute not less than 10 per cent of the ordinary share capital of the company, and
 - (b) carry rights to not less than 10 per cent of—
 - (i) any profits available for distribution to shareholders of the company,
 - (ii) any assets of that company available for distribution to its shareholders in the event of a winding-up.
- (3) For the purposes of sub-paragraph (2), shares that have been appropriated to, and acquired on behalf of, an individual under the plan shall continue to be treated as held by the trustees of the plan trust for the beneficiaries of that trust until such time as they cease to be subject to the plan (within the meaning of the SIP code).
- (4) A deduction allowed under this paragraph—
 - (a) is of an amount equal to the amount of the payment referred to in sub-paragraph (1), and
 - (b) must be made for the period of account in which the condition in sub-paragraph (2) is met.
- (5) No other deduction is allowed for any amount in respect of which a deduction has been made under this paragraph (except as specified in paragraph 10).

Withdrawal of deduction under paragraph 9

- 10 (1) The Inland Revenue may by notice direct that the benefit of a deduction made under paragraph 9 is withdrawn where—
 - (a) fewer than 30 per cent of the shares acquired by virtue of the payment in respect of which the deduction is made have been awarded under the plan before the end of the period of 5 years beginning with the date of acquisition, or
 - (b) not all the shares acquired by virtue of that payment have been so awarded before the end of the period of 10 years beginning with that date.
- (2) The effect of a direction under sub-paragraph (1)(a) or (b) is that the amount of the deduction is treated as a trading receipt of the company for the period of account in which the direction is given.
- (3) However, where—
 - (a) the Inland Revenue give a direction under sub-paragraph (1)(a) or (b) in respect of any deduction, and
 - (b) at any time after the giving of the direction, all the shares acquired by virtue of the payment in respect of which the deduction was made are awarded under the plan,
 a further deduction is allowed under this sub-paragraph to the company which made the payment.

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- (4) A deduction under sub-paragraph (3)—
 - (a) is of an amount equal to the amount of the payment referred to in that sub-paragraph, and
 - (b) must be made for the period of account in which sub-paragraph (3)(b) is first satisfied.
- (5) No other deduction is allowed in respect of any amount for which a deduction has been made under sub-paragraph (3).
- (6) Sub-paragraph (8) applies where—
 - (a) a deduction is made under paragraph 9 (deduction for contribution to plan trust) or sub-paragraph (3) in respect of a payment for the acquisition of shares, but
 - (b) shares are awarded under the plan to an individual at a time when the earnings from the required employment are not (or would not be if there were any) chargeable earnings.
- (7) In sub-paragraph (6) “required employment” and “chargeable earnings”, in relation to an individual, have the same meanings as they have in paragraph 4(2) (cases in which no deduction is allowed).
- (8) An amount equal to the appropriate proportion of the deduction is treated as a trading receipt of the company for the period of account in which the shares are so awarded.
- (9) For the purposes of sub-paragraph (8), the appropriate proportion of the deduction is the proportion which the number of shares awarded to the individual bears to the total number of shares acquired by virtue of the payment.
- (10) For the purposes of this paragraph, where shares are acquired by the trustees on different days, it shall be assumed that those acquired on an earlier day are awarded to employees under the plan before those acquired by the trustees on a later day.

Withdrawal of deductions on withdrawal of approval

- 11 (1) If approval of a share incentive plan is withdrawn the Inland Revenue may by notice to a company direct that the benefit of—
 - (a) any deductions under paragraph 2 (deduction for providing free or matching shares),
 - (b) any deductions under paragraph 3 (deduction for additional expenses in providing partnership shares),
 - (c) any deductions under paragraph 9 (deduction for contribution to plan trust) (in so far as not already withdrawn under paragraph 10), or
 - (d) any deductions under paragraph 10(3) (further deduction where deduction under paragraph 9 withdrawn),in relation to the plan is also withdrawn.
- (2) The effect of the direction is that the aggregate amount of the deductions is treated as a trading receipt of that company for the period of account in which the Inland Revenue give notice of the withdrawal of approval.

Termination of plan: shares acquired as mentioned in paragraph 9 but not yet awarded

12 (1) This paragraph applies where the company has issued a plan termination notice under paragraph 89 of Schedule 2 to ITEPA 2003 (termination of plan).

(2) In a case where—

- (a) by virtue of a payment made to the trustees by the company, the trustees acquire shares in the company, or a company which controls it,
- (b) a deduction under paragraph 9 (deduction for contribution to plan trust) has been made in respect of that payment (and has not been withdrawn under paragraph 10), and
- (c) not all the shares acquired by virtue of the payment have been awarded under the plan before issue of the plan termination notice,

an amount equal to the appropriate proportion of the deduction is treated as a trading receipt of the company for the period of account in which the plan termination notice is given.

- (3) For the purposes of sub-paragraph (2), the appropriate proportion of the deduction is the proportion which the number of shares acquired by virtue of the payment and not awarded as specified in sub-paragraph (2) (c) bears to the total number of shares so acquired.

Application of provisions to expenses of management of investment companies etc.

13 (1) The provisions of this Schedule apply in relation to—

- (a) investment companies, and
- (b) companies to which section 75 (expenses of management: investment companies) applies by virtue of section 76 (expenses of management: insurance companies),

in accordance with the following provisions.

(2) The provisions of this Schedule which allow a deduction in calculating the profits of a trade apply to treat amounts as disbursed as expenses of management.

(3) Paragraph 11(2) applies as if the reference to a trading receipt for the period of account in which the Inland Revenue give notice of the withdrawal of approval were a reference to profits or gains chargeable to tax under Case VI of Schedule D arising when the Inland Revenue give notice of the withdrawal.”

110 Omit Schedules 6 and 6A (taxation of directors and others: cars and vans).

111 Omit Schedules 7 and 7A (taxation of benefit of loans).

112 (1) Amend Schedule 9 (approved share option schemes and profit sharing schemes) as follows.

(2) Omit Parts 1, 2 and 6 except so far as relating to profit sharing schemes.

- (3) Omit Parts 3 and 4.
- 113 (1) Amend Schedule 10 (further provisions relating to profit sharing schemes) as follows.
- (2) In paragraphs 3(1) and 6(4) for “charging an individual to income tax under Schedule E” substitute “under which an amount counts as employment income of an individual”.
- (3) In paragraph 7—
- (a) in sub-paragraph (1), for “a participant in the scheme is chargeable to income tax under Schedule E” substitute “an amount counts as employment income of the participant”,
- (b) in sub-paragraph (6), for the words from “section 203” to “Schedule E” substitute “section 684 of ITEPA 2003 (PAYE regulations) and PAYE regulations as PAYE income payable to the recipient”, and
- (c) in sub-paragraph (7)(b)—
- (i) omit second “to”, and
- (ii) for “the participant is chargeable” substitute “is charged on the participant”.
- 114 Omit Schedule 11 (payments and other benefits in connection with termination of employment etc.).
- 115 Omit Schedule 11A (removal benefits and expenses).
- 116 Omit Schedule 12 (foreign earnings).
- 117 Omit Schedule 12AA (mileage allowances).
- 118 Omit Schedule 12A (ordinary commuting and private travel).
- 119 In Schedule 14 (modification of section 266 in certain cases), in paragraph 5 for “section 595” substitute “section 386 of ITEPA 2003 (payments to non-approved retirement benefits schemes)”.
- 120 (1) Amend paragraph 2 of Schedule 15A (contractual savings schemes) as follows.
- (2) In sub-paragraph (1)(a) for “savings-related share” substitute “SAYE”.
- (3) For sub-paragraph (2) substitute—
- “(2) In sub-paragraph (1) above, “approved” and “SAYE option scheme” have the same meanings as in the SAYE code (see section 516(4) of ITEPA 2003 (approved SAYE option schemes)).”
- 121 (1) Amend paragraph 5B of Schedule 18 (group relief: equity holders and profits available for distribution) as follows.
- (2) In sub-paragraph (4)(d) for “approved under Schedule 9” substitute “which was approved”.
- (3) After sub-paragraph (4) insert—
- “(4A) In sub-paragraph (4)(d) above—
- “share option scheme” means—

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

- (a) an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of ITEPA 2003 (approved SAYE option schemes)), or
 - (b) a CSOP scheme within the meaning of the CSOP code (see section 521(4) of that Act (approved CSOP schemes)); and
- “approved” means—
- (a) in relation to an SAYE option scheme, approved under Schedule 3 to that Act (approved SAYE option schemes), and
 - (b) in relation to a CSOP scheme, approved under Schedule 4 to that Act (approved CSOP schemes).”