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SCHEDULES

SCHEDULE 8

EMPLOYEE SHARE SCHEMES

PART 1

SHARE INCENTIVE PLANS

Commencement and transitional provision

- 89 This Part is treated as having come into force on 6 April 2014.
- 90 Paragraphs 91 to 96 below apply in relation to a SIP established before 6 April 2014.
- 91 (1) If the SIP was an approved SIP immediately before 6 April 2014, this paragraph applies to any provision which the SIP contains immediately before that date and which requires the approval or agreement of Her Majesty's Revenue and Customs or an officer of Revenue and Customs to be obtained in relation to any matter.
- (2) On and after 6 April 2014, the provision is to have effect without the requirement for the approval or agreement, unless the requirement reflects a requirement for approval or agreement set out in Schedule 2 to ITEPA 2003 (as amended by this Part).
- 92 (1) If the SIP was an approved SIP immediately before 6 April 2014, the amendments made by paragraph 19 above have effect in relation to the SIP only if, and when, there is an alteration in a key feature of the SIP or plan trust on or after that date.
- (2) In sub-paragraph (1) “key feature” has the meaning given in paragraph 81B(8) of Schedule 2 to ITEPA 2003 (as inserted by paragraph 28 above).
- 93 If the SIP was an approved SIP immediately before 6 April 2014, on and after that date the SIP and the plan trust have effect with any modifications needed to reflect the amendments made by paragraphs 20 to 22, 25, 27, 29 and 30 above.
- 94 (1) Paragraph 81A of Schedule 2 to ITEPA 2003 (as inserted by paragraph 28 above) has effect in relation to the SIP—
- (a) as if, at the end of sub-paragraph (1), the words “on or before 6 July 2015” were inserted,
- (b) if the first date on which awards of shares are made under the SIP falls before 6 April 2014—
- (i) as if, in sub-paragraph (3)(b), the reference to that date were a reference to 6 April 2014 and, accordingly, as if all references in paragraph 81A to the first award date were references to 6 April 2014,
- (ii) as if sub-paragraph (3)(b)(i) were omitted, and
- (iii) as if, in sub-paragraph (3)(b)(ii), “otherwise” were omitted,
- (c) as if sub-paragraph (5) were omitted, and

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- (d) as if, in sub-paragraph (6), the definitions of “the initial notification deadline” and “the relevant tax year” were omitted.
- (2) But the SIP cannot be a Schedule 2 SIP if, before 6 April 2014, an application for its approval was refused or an officer of Revenue and Customs decided to withdraw its approval.
- (3) Sub-paragraph (2) is without prejudice to the outcome of any appeal under paragraph 82 or 85 of Schedule 2 to ITEPA 2003 against the refusal or decision to withdraw approval.
- (4) The amendments made by this Part do not affect any right of appeal under paragraph 82 or 85 of Schedule 2 to ITEPA 2003 against a refusal or decision made before 6 April 2014 in relation to the SIP.
- (5) Sub-paragraphs (6) and (7) apply if shares (“the relevant shares”) were appropriated to, or acquired on behalf of, an individual before 6 April 2014 under the SIP at a time when the SIP was an approved SIP.
- (6) On and after 6 April 2014, the SIP code operates in relation to the relevant shares—
- (a) as if the relevant shares were appropriated to, or acquired on behalf of, the individual under the SIP at a time when the SIP was a Schedule 2 SIP, and
 - (b) if no notice under paragraph 81A of Schedule 2 to ITEPA 2003 is given in relation to the SIP or if the SIP cannot be a Schedule 2 SIP because of sub-paragraph (2) of this paragraph, as if the SIP were a Schedule 2 SIP despite no notice being given or despite sub-paragraph (2).
- (7) If no notice under paragraph 81A of Schedule 2 to ITEPA 2003 is given in relation to the SIP, paragraph 81B of that Schedule (as inserted by paragraph 28 above) is to apply in relation to the SIP despite no notice being given; and, for this purpose, the relevant date is to be taken to be 6 April 2014.
- (8) In relation to the SIP—
- (a) paragraph 81F of Schedule 2 to ITEPA 2003 (as inserted by paragraph 28 above) has effect as if for sub-paragraph (2) there were substituted—

“(2) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so no later than 6 July 2016.”, and
 - (b) the cases covered by paragraphs 81F(4)(b), 81H(1)(a)(ii) and 81I(1)(a)(ii) of Schedule 2 to ITEPA 2003 (as inserted by paragraph 28 above) include cases in which requirements of Parts 2 to 9 of that Schedule were not met before 6 April 2014.
- 95 If the SIP was an approved SIP before 6 April 2014, the amendments made by this Part do not affect the deductions which may be made in relation to the SIP under section 987 of CTA 2009 (deduction for costs of setting up SIP) if they would otherwise do so; and the amendment made by paragraph 83(3)(a)(i) above has no effect in relation to such deductions.
- 96 The amendments made by paragraph 31 above do not affect a notice given in relation to the SIP under paragraph 93 of Schedule 2 to ITEPA 2003 before 6 April 2014.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)