

Changes to legislation: *Income and Corporation Taxes Act 1988, Paragraph 37 is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 9

APPROVED SHARE OPTION SCHEMES AND PROFIT SHARING SCHEMES

Modifications etc. (not altering text)

- C1** Sch. 9 excluded (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), **ss. 238(2)(c)(4)**, 289 (with ss. 60, 101(1), 171, 201(3))
- C1** Sch. 9 modified (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), **s. 115**
- C1** Sch. 9 modified (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), **s. 116(3)**
- C1** Sch. 9 modified (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), **s. 49(1)(2)**
- C1** Sch. 9 continued for specified purposes (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **s. 418(3)** (with Sch. 7)

[^{F1}PART VI

MATERIAL INTEREST TEST

Textual Amendments

- F1** Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 112(1), **Sch 8 Pt. 1** (with Sch. 7)

Interests under trusts

- 37 (1) This ^{MI} paragraph applies in a case where—
- (a) the individual (“the beneficiary”) was one of the objects of a discretionary trust; and
 - (b) the property subject to the trust at any time consisted of or included any shares or obligations of the company.
- (2) If neither the beneficiary nor any relevant associate of his had received any benefit under the discretionary trust before 14th November 1986, then, as respects any time before that date, the trustees of the settlement concerned shall not be regarded, by reason only of the matters referred to in sub-paragraph (1) above, as having been associates (as defined in section 417(3) and (4)) of the beneficiary.
- (3) If, on or after 14th November 1986—
- (a) the beneficiary ceases to be eligible to benefit under the discretionary trust by reason of—
 - (i) an irrevocable disclaimer or release executed by him under seal; or

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- (ii) the irrevocable exercise by the trustees of a power to exclude him from the objects of the trust; and
 - (b) immediately after he so ceases, no relevant associate of his is interested in the shares or obligations of the company which are subject to the trust; and
 - (c) during the period of 12 months ending with the date when the beneficiary so ceases, neither the beneficiary nor any relevant associate of his received any benefit under the trust,
- the beneficiary shall not be regarded, by reason only of the matters referred to in sub-paragraph (1) above, as having been interested in the shares or obligations of the company as mentioned in section 417(3)(c) at any time during the period of 12 months referred to in paragraph (c) above.
- (4) In sub-paragraphs (2) and (3) above “relevant associate” has the meaning given to “associate” by subsection (3) of section 417 but with the omission of paragraph (c) of that subsection.
 - (5) Sub-paragraph (3)(a)(i) above, in its application to Scotland, shall be construed as if the words “under seal” were omitted.]

Marginal Citations

M1 Source—1987 Sch.4 6-8

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

- Act Tax Acts: power to modify conferred by [2004 c. 25 s. 18](#)
- Act Taxes Acts modified by 1970 c. 9, Sch. A1 para. 10(7) (as inserted) by [2017 c. 32 s. 60\(3\)](#)
- Act Taxes Acts modified by 1970 c. 9, s. 8(7) (as inserted) by [2017 c. 32 Sch. 14 para. 3\(15\)](#)
- Act Taxes Acts modified by 1970 c. 9, s. 8A(7) (as inserted) by [2017 c. 32 Sch. 14 para. 4\(12\)](#)
- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to legislation.gov.uk. S.I. 2010/875 was revoked (27.8.2010) by SI 2010/1906, reg. 2 without having come into force)

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

- s. 109A(4B) inserted by [2005 c. 7 Sch. 4 para. 6\(3\)](#) (This amendment not applied to legislation.gov.uk. The amending provision (2005 c. 7, Sch. 4 para. 6) repealed retrospectively by 2005 c. 22, Sch. 6 para. 4(1)(6))
- Sch. 19AB para. 5(5)(a)(b) words substituted by [S.I. 2001/3629 art. 52\(2\)\(n\)](#) (This amendment not applied to legislation.gov.uk. The words to be substituted do not occur in Sch. 19AB para. 5)