

FINANCE ACT 2014

EXPLANATORY NOTES

INTRODUCTION

Section 290 & Schedule 37: Companies Owned by Employee-Ownership Trusts

Details of the Schedule

Part 3: minor amendments

Inheritance Tax Act 1984

116. Paragraph 9 makes amendments to Inheritance Tax Act 1984 (IHTA).
117. Paragraph 10(1) inserts new section 13A into IHTA which provides for an exemption for transfers (dispositions) of cash or other assets by a close company (“C”) to the trust. This provides for an alternative exemption where the condition in section 13(1) that the trust property must be applied for the benefit of ‘all or most’ employees is not met because of the application of the provisions in section 236K(1) TCGA.
118. New section 13A(1) provides that a transfer to the trust by C is not a transfer of value, and hence is not subject to inheritance tax, if C meets the trading requirement, the trust meets the all-employee benefit requirement, and the trust meets the controlling interest requirement at the end of the tax year in which the transfer occurs.
119. New sections 13A(2) and (3) specify the provisions which apply to determine whether the requirements in section 13A(1) are met and explain the meaning of “close company” and “tax year”.
120. Paragraph 10(2) provides that this amendment takes effect for transfers made on or after 6 April 2014.
121. Paragraph 11(1) inserts new section 28A into IHTA which provides for an exemption for transfers of shares in a company (“C”) by an individual to the trust. This provides for an alternative exemption where the condition in section 28(1)(b) that the trust property must be applied for the benefit of ‘all or most’ employees is not met because of the application of the provisions in section 236K(1) TCGA.
122. New section 28A(1) provides that a transfer by the individual is exempt if C meets the trading requirement, the trust meets the all-employee benefit requirement, and the trust meets the controlling interest requirement at the end of the tax year in which the transfer occurs.
123. New sections 28A(2) and (3) specify the provisions which apply to determine whether the requirements in section 28A(1) are met and explain the meaning of “tax year”.
124. Paragraph 11(2) provides that this amendment has effect for transfers made on or after 6 April 2014.
125. Paragraph 12(1) makes consequential amendments to section 29A(6) to bring the new provisions within the scope of section 29A. Section 29A applies where the estate on

*These notes refer to the Finance Act 2014 (c.26)
which received Royal Assent on 17 July 2014*

death is attributable wholly or in part to an exempt gift, including a transfer of shares to an employee benefit trust exempt under section 28, and the beneficiary of that gift settles a claim against the estate out of their own resources. The transfer is chargeable to the extent that the beneficiary's estate is less through settling the claim. This paragraph extends the treatment to a transfer of shares which is exempt under new section 28A.

126. Paragraph 12(2) provides that this amendment takes effect for transfers made on or after 6 April 2014.
127. Paragraph 13(1) makes amendments to section 72 of IHTA, which applies where settled property ceases to be subject to trusts to which section 86 applies.
128. Paragraph 13(3) inserts new section 72(3A) which provides for an exemption from the charge under section 72(2)(a) which would otherwise apply when settled property continues to be held on trust, but in such a way that it ceases to be exempt under section 86. This ensures that there is no charge if the trust ceases to be exempt under new section 86(3)(d) because the trading requirement or controlling interest requirement (or both requirements) are no longer met.
129. Paragraph 13(4) provides that this amendment is treated as coming into force on or after 6 April 2014.
130. Paragraph 14(1) inserts new section 75A into IHTA.
131. New section 75A(1) provides an exemption from the charge under section 65 when shares in a company ("C") which are already held in a trust become held in a trust to which section 86(1) applies if certain conditions are met.
132. New section 75A(2) sets out the conditions that have to be met, which are that C meets the trading requirement, the trusts of the settlement meet the all-employee benefit requirement, and the settlement meets the controlling interest requirement at the end of the tax year in which the transfer occurs.
133. New section 75A(3) and (4) specify the provisions which apply to determine whether the requirements in section 75A(2) are met and explain the meaning of "tax year".
134. Paragraph 14(2) provides that this amendment is treated as coming into force on 6 April 2014.
135. Paragraph 15(1) makes amendments to section 86 of IHTA.
136. Paragraph 15(2) inserts new section 86(3)(d) so that the trust qualifies for the same exemption from inheritance tax which applies to employee benefit trusts providing that it holds shares in a company which meets the trading requirement, and the trust meets the controlling interest requirement and the all-employee benefit requirement.
137. Paragraph 15(3) inserts new section 86(3A) which specifies the provisions that apply to determine whether the trading requirement, all-employee benefit requirement and controlling interest requirement are met, and defines ordinary share capital.
138. Paragraph 15(4) provides that these amendments are treated as coming into force on 6 April 2014.
139. Paragraph 16(1) makes consequential amendments to section 144 to include new section 75A.
140. Paragraph 16(2) provides that this amendment is treated as coming into force on 6 April 2014.