



Finance Act 1996

1996 CHAPTER 8

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

SHARE OPTIONS, PROFIT SHARING AND EMPLOYEE SHARE OWNERSHIP

Employee share ownership trusts

119 Removal of requirement for at least one year's service.

- (1) In Schedule 5 to the ^{M1}Finance Act 1989 (employee share ownership trusts) in paragraph 4(5)(a) (for a trust to be a qualifying ESOT, its beneficiaries must have been employees or directors of the company for at least one year) the words “not less than one year and” shall cease to have effect.
- (2) This section applies to trusts established on or after the day on which this Act is passed.

Marginal Citations

M1 1989 c. 26.

120 Grant and exercise of share options.

- (1) In Schedule 5 to the ^{M2}Finance Act 1989 (employee share ownership trusts), in paragraph 4 (the trust deed must contain provision as to the beneficiaries) after subparagraph (2) there shall be inserted—

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- “(2A) The trust deed may provide that a person is a beneficiary at a given time if at that time he is eligible to participate in a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—
- (a) which was established by a company within the founding company’s group, and
 - (b) which is approved under that Schedule.
- (2B) Where a trust deed contains a rule conforming with sub-paragraph (2A) above it must provide that the only powers and duties which the trustees may exercise in relation to persons who are beneficiaries by virtue only of that rule are those which may be exercised in accordance with the provisions of a scheme such as is mentioned in that sub-paragraph.”
- (2) In consequence of the amendment made by subsection (1) above, section 69 of, and Schedule 5 to, the ^{M3}Finance Act 1989 (which respectively make provision about chargeable events in relation to the trustees of qualifying employee share ownership trusts and the requirements to be satisfied by such trusts) shall be amended in accordance with the following provisions of this section.
- (3) In subsection (4) of that section (meaning of “qualifying terms” for the purposes of the provision that the transfer of securities to beneficiaries is a chargeable event if it is not on qualifying terms)—
- (a) in paragraph (a) (securities which are transferred at the same time must be transferred on similar terms) after “time” there shall be inserted “ other than those transferred on a transfer such as is mentioned in subsection (4ZA) below ”;
 - (b) in paragraph (b) (securities must have been offered to all the persons who are beneficiaries), after “trust deed” there shall be inserted “ by virtue of a rule which conforms with paragraph 4(2), (3) or (4) of Schedule 5 to this Act ”; and
 - (c) in paragraph (c) (securities must be transferred to all such beneficiaries who have accepted the offer) for “beneficiaries” there shall be substituted “ persons ”.
- (4) After subsection (4) of that section there shall be inserted—
- “(4ZA) For the purposes of subsection (1)(b) above a transfer of securities is also made on qualifying terms if—
- (a) it is made to a person exercising a right to acquire shares, and
 - (b) that right was obtained in accordance with the provisions of a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—
 - (i) which was established by, or by a company controlled by, the company which established the trust, and
 - (ii) which is approved under that Schedule, and
 - (c) that right is being exercised in accordance with the provisions of that scheme, and
 - (d) the consideration for the transfer is payable to the trustees.”
- (5) In sub-paragraph (4) of paragraph 4 of that Schedule (trust deed may provide for charity to be beneficiary if there are no beneficiaries falling within a rule conforming with sub-paragraph (2) or (3)) after “sub-paragraph (2)” there shall be inserted “ , (2A) ”.

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- (6) In sub-paragraph (7) of that paragraph (trust deed must not provide for a person to be a beneficiary unless he falls within a rule conforming with sub-paragraph (2), (3) or (4)) after “sub-paragraph (2)” there shall be inserted “, (2A)”.
- (7) In sub-paragraph (8) of that paragraph (trust deed must provide that person with material interest in founding company cannot be a beneficiary) after “at a particular time (the relevant time)” there shall be inserted “ by virtue of a rule which conforms with sub-paragraph (2), (3) or (4) above ”.
- (8) In paragraph 5(2) of that Schedule (trust deed must be so expressed that it is apparent that the general functions of the trustees are as mentioned in paragraphs (a) to (e)) after paragraph (c) there shall be inserted—
- “(cc) to grant rights to acquire shares to persons who are beneficiaries under the terms of the trust deed;”.
- (9) In paragraph 9 of that Schedule (trust deed must provide that transfers of securities to beneficiaries must be on qualifying terms and within the qualifying period) in sub-paragraph (2) (meaning of qualifying terms)—
- (a) in paragraph (a) (securities which are transferred at the same time must be transferred on similar terms) after “time” there shall be inserted “ other than those transferred on a transfer such as is mentioned in sub-paragraph (2ZA) below ”;
- (b) in paragraph (b) (securities must have been offered to all the persons who are beneficiaries) after “trust deed” there shall be inserted “ by virtue of a rule which conforms with paragraph 4(2), (3) or (4) above ”; and
- (c) in paragraph (c) (securities must be transferred to all such beneficiaries who have accepted the offer) for “beneficiaries” there shall be substituted “ persons ”.
- (10) After sub-paragraph (2) of that paragraph there shall be inserted—
- “(2ZA) For the purposes of sub-paragraph (1) above a transfer of securities is also made on qualifying terms if—
- (a) it is made to a person exercising a right to acquire shares, and
- (b) that right was obtained in accordance with the provisions of a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—
- (i) which was established by, or by a company controlled by, the founding company, and
- (ii) which is approved under that Schedule, and
- (c) that right is being exercised in accordance with the provisions of that scheme, and
- (d) the consideration for the transfer is payable to the trustees.”
- (11) In paragraph 10 of that Schedule (trust deed must not contain features not essential or reasonably incidental to purposes mentioned in that paragraph)—
- (a) after “acquiring sums and securities,” there shall be inserted “ granting rights to acquire shares to persons who are eligible to participate in savings-related share option schemes approved under Schedule 9 to the Taxes Act 1988, transferring shares to such persons, ”; and
- ^{F1}(b)

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- (12) This section has effect in relation to trusts established on or after the day on which this Act is passed.

Textual Amendments

- F1** S. 120(11)(b) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

Marginal Citations

- M2** 1989 c. 26.
M3 1989 c. 26.

Changes to legislation:

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