

Employee-ownership trusts

1 Employee-ownership trusts

Schedule 1 makes provision about employee ownership trusts.

SCHEDULE 1

Section 1

EMPLOYEE-OWNERSHIP TRUSTS

PART 1

CAPITAL GAINS TAX

Introduction

1 TCGA 1992 is amended as follows.

Requirement for trustees of employee-ownership trusts to be UK resident

2 (1) In section 236H(4) (disposals to employee-ownership trusts), before paragraph (a) insert—

“(aa) that the trustees of the settlement are resident in the United Kingdom at the time of the disposal and continue to be UK resident for the remainder of the tax year in which that time falls.”

(2) In section 236O(2) (no section 236H relief if disqualifying event in next tax year), before paragraph (a) insert—

“(aa) the trustees of the settlement cease to be resident in the United Kingdom.”

(3) In section 236P (events which trigger deemed disposal and reacquisition by trustees), after subsection (3) insert—

“(3A) See also section 80 (trustees ceasing to be resident in U.K.), which provides for similar consequences in circumstances where the trustees of the settlement cease to be resident in the United Kingdom.”

(4) In section 236Q(1)(c) (relief for deemed disposals under section 71), for “236H(4)(a)” substitute “236H(4)(aa)”.

(5) The amendments made by this paragraph have effect in relation to disposals made on or after 30 October 2024.

Trustee independence

3 (1) In section 236H(4), after paragraph (b) insert—

“(ba) that the settlement meets the trustee independence requirement (see section 236LA) at the time of the disposal and continues to meet that requirement for the remainder of the tax year in which that time falls.”

(2) After section 236L insert –

“236LA Trustee independence requirement

- (1) A settlement meets the trustee independence requirement if –
- (a) less than 50% of the trustees are persons who are excluded participators, and
 - (b) excluded participators do not have control of the settlement.

- (2) In this section “excluded participator” means –
- (a) a person that is an excluded participator within the meaning given by section 236J, other than a person who is an excluded participator only as a result of a connection falling within section 286(3) (trustees regarded as connected with settlors etc), or
 - (b) a company not falling within paragraph (a), if 50% or more of its directors are persons falling within that paragraph.

- (3) Excluded participators have control of the settlement if one or more excluded participators, acting alone or together without the trustees who are not excluded participators, have power under the trust instrument or by law to –
- (a) dispose of, advance, lend, invest, pay or apply settlement property;
 - (b) vary or terminate the settlement;
 - (c) add or remove a person as a beneficiary or to or from a class of beneficiaries;
 - (d) appoint or remove trustees or give another individual control over the settlement;
 - (e) direct the exercise of a power mentioned in sub-paragraphs (a) to (d).”

(3) In section 236O(2), after paragraph (b) insert –

“(ba) the settlement ceases to meet the trustee independence requirement,”.

(4) In section 236P(2) (events which trigger deemed disposal and reacquisition by trustees), after paragraph (b) insert –

“(ba) the settlement ceases to meet the trustee independence requirement,”.

(5) The amendments made by this paragraph have effect in relation to disposals made on or after 30 October 2024.

Temporary breach of trustee independence requirement or residence requirement arising from death of trustee

4 (1) In section 236O, after subsection (2) insert –

“(2A) Where –

- (a) a disqualifying event falling within subsection (2)(aa) occurs (trustees cease to be resident in the United Kingdom),
- (b) the event only occurs as a result of the death of a trustee of the settlement, and
- (c) within the period of 6 months beginning with the death of the trustee, the trustees become resident in the United Kingdom,

the disqualifying event is to be ignored.

(2B) Where –

- (a) a disqualifying event falling within subsection (2)(ba) occurs (trustee independence requirement ceases to be met),
- (b) the event only occurs as a result of –
 - (i) the death of a trustee of the settlement, or
 - (ii) the death of a director of a company that is a trustee of the settlement, and
- (c) within the period of 6 months beginning with that death, the settlement meets the trustee independence requirement,

the disqualifying event is to be ignored.”

(2) In section 236P, after subsection (2) insert –

“(2A) Where –

- (a) a disqualifying event falling within subsection (2)(ba) occurs (trustee independence requirement ceases to be met),
- (b) the event only occurs as a result of –
 - (i) the death of a trustee of the settlement, or
 - (ii) the death of a director of a company that is a trustee of the settlement, and
- (c) within the period of 6 months beginning with that death, the settlement meets the trustee independence requirement,

the disqualifying event is to be ignored.”

(3) The amendments made by this paragraph have effect in relation to disposals made on or after 30 October 2024.

Consideration requirement

5 (1) In section 236H(4), after paragraph (c) insert –

- “(ca) that the trustees have taken all reasonable steps to secure that –
 - (i) the consideration for the disposal does not exceed the market value of the ordinary share capital at the time of the disposal, and
 - (ii) where some or all of the consideration for the disposal is deferred, that the rate of any interest payable in relation to the deferral does not exceed a reasonable commercial rate.”.

- (2) In section 236Q, in subsection (1)(c), for “(d)” substitute “(c) and (d)”.
- (3) The amendments made by this paragraph have effect in relation to disposals made on or after 30 October 2024.

Extended period for disqualifying events

- 6 (1) In section 236O—
 - (a) in the heading, for “tax year” substitute “four tax years”, and
 - (b) in subsection (1)(b), for “the tax year” substitute “any of the first four tax years”.
- (2) In section 236P(1), after “end of the” insert “fourth”.
- (3) In section 236R—
 - (a) in the heading, for “tax year” substitute “four tax years”, and
 - (b) in subsection (1)(b), for “the tax year” substitute “any of the first four tax years”.
- (4) The amendments made by this paragraph have effect in relation to disposals made on or after 30 October 2024.

Additional information to be provided in claims

- 7 (1) In section 236H—
 - (a) in subsection (7)—
 - (i) omit the “and” after paragraph (b),
 - (ii) after that paragraph insert—
 - “(ba) the number of persons who at the time of the disposal are employees of—
 - (i) C, or
 - (ii) if C is the principal company of a trading group (within the meaning of section 236I(3)), any member of that group,”; and
 - (iii) after paragraph (c) insert “, and
 - (d) the consideration for the disposal (including amounts of consideration due after the disposal).”, and
 - (b) after that subsection insert—
 - “(7A) But where the person making the claim is unable to include the number of employees in the claim as required by subsection (7)(ba) because they have been unable to ascertain that number, that requirement is to be taken to be met if—
 - (a) the person has taken all reasonable steps to ascertain that number, and—

- (b) the claim contains a statement that the person has taken such steps.”
 - (2) In section 236Q—
 - (a) in subsection (6)—
 - (i) omit the “and” after paragraph (b), and
 - (ii) after that paragraph insert—
 - “(ba) the number of persons who at the time of the deemed disposal are employees of—
 - (i) the company, or
 - (ii) if the company is the principal company of a trading group (within the meaning of section 236I(3)), any member of that group, and”, and
 - (b) after that subsection insert—
 - “(6A) But where the person making the claim is unable to include the number of employees in the claim as required by subsection (6)(ba) because they have been unable to ascertain that number, that requirement is to be taken to be met if—
 - (a) the person has taken all reasonable steps to ascertain that number, and—
 - (b) the claim contains a statement that the person has taken such steps.”
 - (3) The amendments made by this paragraph have effect in relation to claims made under those sections on or after 6 April 2025.

PART 2

INCOME TAX

Participation requirement not infringed by exclusion of directors

- 8 (1) In section 312C of ITEPA 2003, after subsection (2) insert—
 - “(2A) The participation requirement is not infringed by reason of the exclusion of directors of the company from participating in an award.”
- (2) The amendment made by this paragraph has effect in relation to qualifying bonus payments made on or after 30 October 2024.

Relief for distributions to trustees of employee-ownership trusts

- 9 (1) In ITTOIA 2005, after section 401 insert –

“Employee-ownership trusts

401ZA Relief: distributions to trustees of employee-ownership trusts

- (1) This section applies where –
- (a) there has been a disposal of ordinary share capital of a company (“C”) to the trustees of a settlement by a person (“P”) other than a company,
 - (b) the relief requirements are met in relation to the disposal,
 - (c) C has made a payment to the trustees that is a distribution to the trustees chargeable to income tax as a result of this Chapter or Chapter 4 (dividends from non-UK resident companies).
- (2) On the making of a claim, so much of the trustees’ acquisition costs may be deducted from the distribution (whether chargeable under this Chapter or Chapter 4) as –
- (a) does not reduce the amount of the distribution below nil, and
 - (b) has not been deducted from any other distribution.
- (3) The “relief requirements” means the requirements set out in section 236H(4) of TCGA 1992 (disposals to employee-ownership trusts).
- (4) For the purposes of subsection (2), the trustees’ acquisition costs are –
- (a) the consideration for the disposal,
 - (b) where some or all of the consideration for the disposal is deferred, so much of any interest payable in relation to the deferral as reflects a rate of interest not exceeding a reasonable commercial rate, and
 - (c) any liability to stamp duty or stamp duty reserve tax on the acquisition of the ordinary share capital.”
- (2) The amendment made by this paragraph has effect in relation to distributions made on or after 30 October 2024.