

Michael Schabas

CP/
Plb to me
16/3/83



Box

MUS 8/3

10 DOWNING STREET

3rd March 1983

1000
May / See the

Dear Gaffer,

Companies Buying Their Own Shares -
Taxation

The Prime Minister has asked me to send
you the enclosed note, which has been
prepared by Alistair McAlpine.

Would you be kind enough, please, to let
me have your comments?

IAN GOW

The Rt Hon Sir Geoffrey Howe QC MP

copy
M. Schabas
discuss with
Chancellor
not

COMPANIES BUYING IN THEIR OWN SHARES

The object was to enable family or closely held companies to be no worse off if they sold shares on retirement or to pay C.T.T. when transferring shares to their family or (when dying!!) to their company rather than outside third parties thus destroying the family character of the business.

If they sell to outsiders there is no question but that the receipt is taxed as Capital. The Companies Act now permits companies to put in their own shares but the tax legislation starts from the premise that the receipts should be taxed as income, not as capital, unless the rich-on-paper family shareholder can get through the eye of the Inland Revenue's needle.

To do this he needs to qualify for the very limited number of permitted exceptions. The whole concept should be changed so that receipts are regarded as capital as is the cost in sales to outsiders.

If this is unlikely then the exemptions need drastic expansion. For instance:

- 1) To apply to close companies even if they have a quotation. They do apply now to companies whose shares are dealt with on The Unlisted Securities Market even if they are not controlled by family or associated shareholders.

The dangers of an unwanted raiding new outside shareholder are vastly greater in a quoted close company than an unquoted company.

Our own company has unquoted capital shares as well as quoted ordinary shares. The present rules take even our unquoted shares out of allowed categories which was surely not intended. Another company while none of their equity is quoted has quoted preference shares and this company also does not qualify.

- 2) The requirement that a shareholder must reduce his holding by 25% to qualify is reasonable enough but bringing in "associates" which bring in virtually all family members closely involved in running the company makes it near impossible to help those who it is aimed to help; e.g. a company wholly owned by, say, 4 associated people one of whom with 10% dies or wishes to retire. The company purchasing all his shares still does not qualify unless it buys in a further 15% from his associates who themselves are not retiring and whose holdings would, therefore, not qualify in their cases.