



# Finance Act 1981

## 1981 CHAPTER 35

### PART IV

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER II

#### RELIEF FOR INVESTMENT IN NEW CORPORATE TRADES

#### 52 The relief

- (1) This Chapter has effect for affording relief from income tax where—
  - (a) an individual who qualifies for the relief subscribes for ordinary shares in a new qualifying company ; and
  - (b) the shares are issued to him for the purpose of raising money for a new qualifying trade which is being carried on by the company or which it intends to carry on within the next twelve months.
- (2) The relief in respect of the amount subscribed by an individual for any shares shall be given as a deduction of that amount from his total income for the year of assessment in which the shares are issued, and references in this Chapter to the amount of the relief are references to the amount of that deduction.
- (3) The relief shall be given on a claim and shall not be allowed—
  - (a) unless and until the company has carried on the new trade for twelve months ; and
  - (b) if the company is not carrying on that trade at the time when the shares are issued, unless the company begins to carry it on within twelve months after that time or within such further period (not exceeding twelve months) as the Board may allow.
- (4) A claim for the relief may be allowed at any time after the end of the year of assessment in which the shares are issued (or, where the period mentioned in subsection (3) (a)

---

*Status: This is the original version (as it was originally enacted).*

---

above ends later, after the end of that period) if the conditions for the relief are then satisfied but subject, in the case of a claim allowed before the end of the relevant period, to the withdrawal of the relief if by reason of any subsequent event it appears that the claimant was not entitled to the relief allowed.

- (5) In this Chapter "the relevant period", in relation to relief in respect of any shares issued by a company, means the period beginning with the incorporation of the company (or, if the company was incorporated more than two years before the date on which the shares were issued, beginning two years before that date) and ending—
- (a) five years ; or
  - (b) as respects sections 55, 56 and 65 below, three years,
- after the issue of the shares.
- (6) Where by reason of its being wound up, or dissolved without winding up, the company carries on the new trade for a period shorter than twelve months, subsection (3)(a) above shall have effect as if it referred to that shorter period but only if it is shown that the winding up or dissolution was for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.
- (7) The relief shall be treated for the purposes of section 34(3) of the Finance Act 1971 (effect of deductions) as a deduction to be made under Chapter II of Part I of the Taxes Act after all other deductions under that Chapter and shall be disregarded for the purposes of section 204(3) of the Taxes Act (pay as you earn) and of calculating relief under section 400(2) of the Taxes Act, paragraph 3 of Schedule 3 to that Act, paragraph 7 of Schedule 8 to that Act in a case where an election has effect under section 31(7) above or paragraph 6(2) of Schedule 9 to this Act (top-slicing).
- (8) Where a claim is made in respect of shares issued in any year of assessment and the period mentioned in subsection (3)(a) above ends in a later year, then, if effect is given to the claim by a repayment of tax, section 47 of the Finance (No. 2) Act 1975 (repayment supplement) shall have effect in relation to the repayment as if the time from which the twelve months mentioned in subsections (1)(a) and (4)(a) of that section are to be calculated were the end of that later year.
- (9) This section applies only where the shares are issued in the year 1981-82 or either of the next two years of assessment.

### **53 Limits on relief**

- (1) Subject to section 66 below, the relief shall not be given in respect of any amount subscribed by an individual for shares issued to him by any company in any year of assessment unless the amount or total amount subscribed by him for the ordinary shares issued to him by the company in that year is £500 or more.
- (2) The relief shall not be given to the extent to which the amount or total amount subscribed by an individual for ordinary shares issued to him in any year of assessment (whether or not by the same company) exceeds £10,000.
- (3) The relief shall not be given in respect of shares issued by any company in any year of assessment (whether to one or more individuals) to the extent that the relief would result in more than 50 per cent, of the company's issued ordinary share capital at the end of that year (or, if earlier, at the dissolution of the company) consisting of shares in respect of which relief has been given.

---

*Status: This is the original version (as it was originally enacted).*

---

- (4) If subsection (3) above requires a restriction to be placed on the relief given on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from the restriction, be eligible for the relief.
- (5) A claimant who is dissatisfied with the manner in which the available relief is divided under subsection (4) above between him and any other claimant or claimants may apply to the appropriate Commissioners who shall, after giving the other claimant or claimants an opportunity to appear and be heard or to make representations in writing, determine the question for all the claimants in the same way as an appeal.
- (6) In subsection (5) above " the appropriate Commissioners " means—
- (a) in a case where the same body of General Commissioners has jurisdiction with respect to all the claimants, those Commissioners unless all the claimants agree that the question shall be determined by the Special Commissioners;
  - (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the claimants, such of those bodies as the Board may direct, unless all the claimants agree that the question shall be determined by the Special Commissioners ;
  - (c) in any other case, the Special Commissioners.
- (7) Where relief has been given in respect of any shares in a company and by reason of any event occurring—
- (a) after the end of the year of assessment in which they were issued; and
  - (b) before the end of the relevant period,
- more than 50 per cent, of the company's issued ordinary share capital consists of shares in respect of which relief has been given, so much of that relief shall be withdrawn as is necessary to secure that not more than 50 per cent, of the company's issued ordinary share capital consists of such shares ; and where the relief was given to two or more persons it shall be withdrawn from them in proportion to the amounts of relief respectively given to them.

#### **54 Individuals qualifying for relief**

- (1) An individual qualifies for the relief if he subscribes for the shares on his own behalf, is resident and ordinarily resident in the United Kingdom throughout the year of assessment in which they are issued and is not at any time in the relevant period connected with the company within the meaning of this section.
- (2) An individual is connected with the company if he, or an associate of his, is—
- (a) an employee of the company or of a partner of the company;
  - (b) a partner of the company ; or
  - (c) subject to subsection (3) below, a director of the company or of another company which is a partner of that company.
- (3) An individual is not connected with a company by reason only that he, or an associate of his, is a director unless he or his associate (or a partnership of which he or his associate is a member) receives a payment from the company during the period of five years beginning with the date on which the shares are issued or is entitled to receive such a payment in respect of that period or any part of it; but for that purpose there shall be disregarded—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by him or his associate in the performance of his duties as a director of the company ;
  - (b) any interest which represents no more than a reasonable commercial return on money lent to the company;
  - (c) any dividend or other distribution which does not exceed a normal return on the investment;
  - (d) any payment for the supply of goods which does not exceed their market value ; and
  - (e) any reasonable and necessary remuneration which—
    - (i) is paid for services rendered to the company in the course of a trade or profession (not being secretarial or managerial services or services of a kind provided by the company itself); and
    - (ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule.
- (4) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent, of—
- (a) the issued ordinary share capital of the company; or
  - (b) the loan capital and issued share capital of the company ; or
  - (c) the voting power, in the company.
- (5) For the purposes of subsection (4)(b) above the loan capital of a company shall be treated as including any debt incurred by the company—
- (a) for any money borrowed or capital assets acquired by the company; or
  - (b) for any right to receive income created in favour of the company ; or
  - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).
- (6) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or in any other circumstances, entitle him to receive more than 30 per cent, of the assets of the company which would then be available for distribution to equity holders of the company, and for the purposes of this subsection—
- (a) the persons who are equity holders of the company; and
  - (b) the percentage of the assets of the company to which the individual would be entitled,
- shall be determined in accordance with paragraphs 1 and 3 of Schedule 12 to the Finance Act 1973, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the company are available for distribution to its equity holders.
- (7) An individual is connected with a company if he has control of it within the meaning of section 534 of the Taxes Act.
- (8) For the purposes of this section an individual shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be

---

*Status: This is the original version (as it was originally enacted).*

---

entitled to acquire; and there shall be attributed to any person any rights or powers of any other person who is an associate of his.

- (9) Where an individual subscribes for shares in a company with which he is not connected within the meaning of the foregoing provisions of this section he shall nevertheless be treated as connected with it if he subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another company with which that or any other individual who is a party to the arrangement is connected within the meaning of those provisions.

## **55 New qualifying companies**

- (1) A company is a qualifying company if it is incorporated in the United Kingdom and complies with the requirements of subsections (2) to (8) below and is a new company until the end of the period of five years beginning with the date of its incorporation or, if later, the date on which it commenced business.
- (2) The company must throughout the relevant period be resident in the United Kingdom and not resident elsewhere.
- (3) The company must throughout that period exist wholly, or substantially wholly, for the purpose of carrying on wholly or mainly in the United Kingdom one or more new qualifying trades.
- (4) Without prejudice to the generality of subsection (3) above but subject to subsection (5) below, a company ceases to comply with subsection (3) above if before the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the Companies Act 1948 or the Companies Act (Northern Ireland) 1960, any other act is done for the like purpose) or the company is dissolved without winding up.
- (5) A company shall not be regarded as ceasing to comply with subsection (2) or (3) above if it does so by reason of being wound up or dissolved without winding up and—
- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax ; and
  - (b) the company's net assets, if any, are distributed to its members or dealt with as bona vacantia before the end of the relevant period or, in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (6) Where the relevant period begins after the incorporation of the company the requirements of subsection (3) above must have been complied with since its incorporation ; but for the purposes of subsections (2) and (3) above any interval between the incorporation of the company and the time when it commenced business shall be disregarded.
- (7) The company's share capital must not at any time in the relevant period include—
- (a) share capital other than ordinary share capital or fixed-interest preference share capital;
  - (b) classes of ordinary shares with different rights in respect of matters other than voting; or
  - (c) issued shares that are not fully paid up.
- (8) Subject to section 65 below, the company must not at any time in the relevant period—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) control (or together with any person connected with it control) another company or be under the control of another company (or of another company and any person connected with that other company); or
- (b) be a 51 per cent, subsidiary of another company or itself have a 51 per cent, subsidiary;

and no arrangements must be in existence at any time in that period by virtue of which the company could fall within paragraph (a) or (b) above.

## **56 New qualifying trades**

- (1) A trade is a qualifying trade if it complies with the requirements of subsections (2) to (4) below and is a new trade if it complies with the other requirements of this section.
- (2) The trade must not at any time in the relevant period consist to any substantial extent of—
  - (a) dealing in commodities, shares, securities, land or futures; or
  - (b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution ; or
  - (c) banking, insurance, money-lending, debt-factoring, hire purchase financing or other financial activities; or
  - (d) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees ; or
  - (e) providing legal or accountancy services ; or
  - (f) providing services or facilities for any trade carried on by another person which consists to any substantial extent of activities within any of the foregoing paragraphs and in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company.
- (3) For the purposes of paragraph (b) of subsection (2) above—
  - (a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them or for processing and resale by them ;
  - (b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption ;

and in determining for the purposes of that paragraph whether a trade is an ordinary trade of wholesale or retail distribution regard shall be had to the extent to which it has the features mentioned in Schedule 11 to this Act, those in Part I being regarded as indications that the trade is such an ordinary trade and those in Part II being regarded as indications of the contrary.
- (4) The trade must from the time when it is commenced until the end of the relevant period be conducted on a commercial basis and with a view to the realisation of profits.
- (5) Subject to subsection (6) below, the trade must be a bona fide new venture.
- (6) A trade shall not be treated as not being a bona fide new venture by reason only that it was carried on as, or as part of, a trade by another person at any time in the five years before the issue of the shares in respect of which the relief is claimed.
- (7) Without prejudice to the generality of subsection (5) above, a trade carried on by a company is not a new venture if—
  - (a) a person having a controlling interest in that trade at any time in the period of twelve months beginning with the date on which the company begins to carry

---

*Status: This is the original version (as it was originally enacted).*

---

- it on has in that period (or has had in the period of twelve months ending with that date) a controlling interest in another trade—
- (i) which is being carried on at that date ; or
  - (ii) which was being carried on more than five years before the issue of the shares in respect of which the relief is claimed ; and
- (b) the trade carried on by the company, or a substantial part of it—
- (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities as the other trade; or
  - (ii) serves substantially the same or similar outlets, or markets as the other trade.
- (8) For the purposes of this section a person has a controlling interest in a trade—
- (a) in the case of a trade carried on by a company if—
    - (i) he controls the company ; or
    - (ii) the company is a close company for the purposes of the Corporation Tax Acts and he or an associate of his is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent, of the ordinary share capital of the company ; or
    - (iii) not less than half of the trade could in accordance with section 253(2) of the Taxes Act be regarded as belonging to him ;
  - (b) in any other case, if he is entitled to not less than half of the assets used for, or the income arising from, the trade.
- (9) For the purposes of subsection (8) above there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (10) References in this section to a trade shall be construed without regard to so much of the definition of " trade" in section 526(5) of the Taxes Act as relates to adventures or concerns in the nature of trade; but the foregoing provisions do not affect the construction of references in subsections (2)(f) or (6) to (8) to a trade carried on by a person other than the company and those references shall be construed as including references to any business, profession or vocation.

## **57 Disposal of shares**

- (1) Where an individual disposes of any shares before the end of the relevant period, then—
- (a) if the disposal is otherwise than by way of a bargain made at arm's length, he shall not be entitled to any relief in respect of those shares ; and
  - (b) in any other case, the amount of relief to which he is entitled in respect of those shares shall be reduced by the amount or value of the consideration which he receives for them.
- (2) Where an individual holds ordinary shares in a company and the relief has been given in respect of some but not others, any disposal by him of ordinary shares in the company shall be treated for the purposes of this section as relating to those in respect of which the relief has been given rather than to others.
- (3) Where the relief has been given to an individual in respect of shares in a company which have been issued to him at different times any disposal by him of the shares

---

*Status: This is the original version (as it was originally enacted).*

---

shall be treated for the purposes of this section as relating to those issued earlier rather than to those issued later.

- (4) Where shares in respect of which the relief was given have by virtue of any such allotment as is mentioned in section 77(2)(a) of the Capital Gains Tax Act 1979 (not being an allotment for payment) fallen to be treated under section 78 of that Act as the same asset as a new holding—
- (a) a disposal of the whole or part of the new holding shall be treated for the purposes of this section as a disposal of the whole or a corresponding part of those shares; and
  - (b) the new holding shall be treated for the purposes of subsection (2) above as shares in respect of which the relief has been given.

## **58 Value received from company**

- (1) Where an individual who subscribes for shares in a company has received or subsequently before the end of the relevant period receives any value from the company within the meaning of this section the amount of the relief to which he is entitled in respect of the shares shall be reduced by the value received.
- (2) For the purposes of this section an individual receives value from the company if the company—
- (a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;
  - (b) repays any debt owed to the individual other than a debt which was incurred by the company—
    - (i) on or after the date on which he subscribed for the shares in respect of which the relief is claimed; and
    - (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date;
  - (c) makes to the individual any payment for giving up his right to any debt (other than a debt in respect of a payment of the kind mentioned in section 54(3)(a) or (e) above or an ordinary trade debt) on its extinguishment ;
  - (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person ;
  - (e) makes a loan or advance to the individual;
  - (f) provides a benefit or facility for the individual;
  - (g) transfers an asset to the individual for no consideration or for consideration less than its market value or acquires an asset from him for consideration exceeding its market value; or
  - (h) makes to him any other payment except a payment of the kind mentioned in section 54(3)(a), (b), (c), (d) or (e) above or a payment in discharge of an ordinary trade debt.
- (3) For the purposes of this section an individual also receives value from the company if he receives in respect of ordinary shares held by him any payment or asset in a winding up or in connection with a dissolution of the company, being a winding up or dissolution falling within section 55(5) above.
- (4) The value received by an individual is—



---

*Status: This is the original version (as it was originally enacted).*

---

- (a) in a case within paragraph (a), (b) or (c) of subsection (2) above, the amount receivable by the individual or, if greater, the market value of the shares, securities or debt in question ;
  - (b) in a case within paragraph (d) of that subsection, the amount of the liability ;
  - (c) in a case within paragraph (e) of that subsection, the amount of the loan or advance ;
  - (d) in a case within paragraph (f) of that subsection, the cost to the company of providing the benefit or facility less any consideration given for it by the individual;
  - (e) in a case within paragraph (g) of that subsection, the difference between the market value of the asset and the consideration (if any) given for it;
  - (f) in a case within paragraph (h) of that subsection, the amount of the payment; and
  - (g) in a case within subsection (3) above, the amount of the payment or, as the case may be, the market value of the asset.
- (5) Where by virtue of this section any relief is withheld or withdrawn in the case of an individual to whom ordinary shares in a company have been issued at different times the relief shall be withheld or withdrawn in respect of shares issued earlier rather than in respect of shares issued later.
- (6) For the purposes of subsection (2)(d) above a company shall be treated as having released or waived a liability if the liability is not discharged within twelve months of the time when it ought to have been discharged.
- (7) For the purposes of subsection (2)(e) above there shall be treated as if it were a loan made by the company to the individual—
- (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company ; and
  - (b) the amount of any debt due from the individual to a third person which has been assigned to the company.
- (8) In this section " an ordinary trade debt" means any debt for goods supplied in the ordinary course of a trade or business where the credit given does not exceed six months and is not longer than that normally given to the customers of the person carrying on the trade or business.
- (9) In this section—
- (a) any reference to a payment or transfer to an individual includes a reference to a payment or transfer made to him indirectly or to his order or for his benefit; and
  - (b) any reference to an individual includes a reference to an associate of his and any reference to the company includes a reference to any person connected with the company.

## **59 Prevention of misuse**

- (1) An individual is not entitled to relief in respect of any shares unless the shares are subscribed for and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

---

*Status: This is the original version (as it was originally enacted).*

---

- (2) The relief to which an individual is entitled in respect of any shares in a company shall be reduced in accordance with subsection (3) below if at any time in the relevant period the company repays, redeems or repurchases any of its share capital which belongs to any member other than—
- (a) that individual; or
  - (b) another individual whose relief is thereby reduced by virtue of section 58(2)(a) above,
- or makes any payment to any such member for giving up his right to any of the company's share capital on its cancellation or extinguishment.
- (3) Where subsection (2) above applies the amount of relief to which an individual is entitled shall be reduced by the amount receivable by the member or, if greater, the nominal value of the share capital in question ; and where, apart from this subsection, two or more individuals would be entitled to relief the reduction shall be made in proportion to the amounts of relief to which they would, apart from this subsection, have been entitled.
- (4) Where at any time in the relevant period a member of a company receives or is entitled to receive any value from the company within the meaning of this subsection, then, for the purposes of the provisions of section 53(3) and (7) and section 54(4) above in their application to any subsequent time—
- (a) the amount of the company's issued ordinary share capital; and
  - (b) the amount of the part of that capital which consists of the shares relevant to those provisions and the amount of the part consisting of the remainder,
- shall each be treated as reduced in accordance with subsection (5) below.
- (5) The amount of each of the parts mentioned in subsection (4)(b) above shall be treated as equal to such proportion of that amount as the amount subscribed for that part less the relevant value bears to the amount subscribed ; and the amount of the issued share capital shall be treated as equal to the sum of the amounts treated under this subsection as the amount of those parts respectively.
- (6) In subsection (4)(b) above the reference to the part of the capital which consists of the shares relevant to the provisions there mentioned is a reference—
- (a) in relation to section 53(3), to the part consisting of shares in respect of which the relief has been given or is claimed;
  - (b) in relation to section 53(7), to the part consisting of shares in respect of which the relief has been given ;
  - (c) in relation to section 54(4), to the part consisting of shares which (within the meaning of that section) the individual directly or indirectly possesses or is entitled to acquire;
- and in subsection (5) above " the relevant value ", in relation to each of the parts there mentioned, means the value received by the member or members entitled to the shares of which that part consists.
- (7) For the purposes of subsection (4) above a member of a company receives or is entitled to receive value from the company in any case in which an individual would receive value from the company by virtue of paragraph (d), (e), (f), (g) or (h) of subsection (2) of section 58 above (but treating as excepted from paragraph (h) all payments made for full consideration) and the value received shall be determined as for the purposes of that section.

---

*Status: This is the original version (as it was originally enacted).*

---

- (8) For the purposes of subsection (7) above a person shall be treated as entitled to receive anything which he is entitled to receive at a future date or will at a future date be entitled to receive.

## **60 Husband and wife**

- (1) In the case of any amount subscribed by a married woman for shares issued to her at a time—

- (a) when she is living with her husband ; and
- (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers,

the deduction under section 52(2) above shall, subject to subsection (2) below, be made from his total income, and references in this Chapter to the relief to which an individual is entitled in respect of any shares shall be construed accordingly.

- (2) For the purposes of sections 38(2) and 39 of the Taxes Act (option for separate assessment) the relief shall be treated as a relief under Chapter II of Part I of that Act; and where—

- (a) an application under section 38(1) of the Taxes Act; or
- (b) an election under section 23 of the Finance Act 1971 (separate taxation of wife's earnings),

is in force for a year of assessment for which a deduction falls to be made under section 52(2) above in respect of an amount subscribed by the wife, section 39(1)(c) of the Taxes Act and paragraph 4 of Schedule 4 to the said Act of 1971 (allocation of reliefs between husband and wife) shall have effect as if references to relief under section 20 of the Taxes Act and to a payment made by the wife included references to relief under this Chapter and to a payment made by her as a subscription for shares.

- (3) For the purposes of subsection (7) of section 36 of the Finance Act 1976 (allocation of surplus deduction to other spouse in year of non-aggregation) the relief shall be treated as a deduction under a provision to which that subsection applies but, in the case of the wife, only as respects amounts subscribed by her for shares issued in the part of the year of assessment mentioned in that subsection.

- (4) The limits in section 53(1) and (2) above shall apply jointly to a husband and wife as respects amounts subscribed for shares issued at a time—

- (a) when they are married and living together; and
- (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers;

but if the husband dies or they are divorced or cease to live together before the end of any such year those limits shall apply to the wife as respects amounts subscribed by her for shares issued in the remainder of the year as if it were a separate year of assessment.

- (5) Where any such application or election as is mentioned in subsection (2) above is in force for a year of assessment in which shares are issued for which amounts have been subscribed both by the husband and the wife, then, if section 53(2) above requires a restriction to be placed on the relief given on a claim or claims in respect of those amounts, the available relief shall be divided between the husband and the wife in proportion to the amounts which have been respectively subscribed by them for the shares to which the claim or claims relate and which would, apart from the restriction, be eligible for the relief.

---

*Status: This is the original version (as it was originally enacted).*

---

- (6) Subsection (1) of section 57 above shall not apply to a disposal made by a married woman to her husband at a time when she is living with him or to a disposal made at such a time by him to her; but where shares issued to one of them have been transferred to the other by a transaction *inter vivos*—
- (a) that subsection shall apply on the disposal of the shares by the transferee to a third person ; and
  - (b) if at any time the husband and wife are divorced or cease to live together and any of those shares have not been disposed of by the transferee before that time, any assessment for withdrawing relief in respect of those shares shall be made on the transferee.
- (7) Where a husband and wife are divorced or cease to live together, then, if any relief given in respect of shares for which either of them has subscribed and which were issued while they were married and living together falls to be withdrawn by virtue of a subsequent disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that reduction under section 39(1) or (2) of the Taxes Act and of any allocation of the relief under section 36(7) of the Finance Act 1976.

## 61 Claims

- (1) A claim for the relief in respect of shares issued by a company in any year of assessment shall be made—
- (a) not earlier than the end of that year or, if later, the end of the period mentioned in section 52(3)(a) above ; and
  - (b) not later than two years after the end of that year or, if that period ends after the end of that year, not later than two years after the end of that period.
- (2) Where in any year of assessment shares are issued by a company to two or more individuals each of whom has subscribed at least £500 for his shares—
- (a) claims in respect of those shares may be made jointly by all or any of them ; and
  - (b) if they do not all make their claims jointly, a claim made by any of them shall not be allowed unless it is accompanied by a statement by each such individual not claiming jointly that he is aware of the making of the claim.
- (3) Where the relief given on a claim to any individual would by virtue of section 53(3) above require the withdrawal of the whole or part of any relief already given to another individual, the claim shall not be allowed unless it is accompanied by a statement by the other individual that he consents to the making of the claim.
- (4) A claim for relief in respect of shares in a company shall not be allowed unless it is accompanied by a statement by the company that the conditions for the relief, so far as applying to the company and the trade, are satisfied up to the date on which the claim is made.
- (5) Any statement under subsection (4) above shall contain such information as the Board may reasonably require, shall be in such form as the Board may direct and shall contain a declaration that it is correct to the best of the company's knowledge and belief; and if any such statement is made fraudulently or negligently the company shall be liable to a penalty not exceeding £250 or, in the case of fraud, £500.

---

*Status: This is the original version (as it was originally enacted).*

---

- (6) No application shall be made under section 55(3) or (4) of the Taxes Management Act 1970 (application for postponement of payment of tax pending appeal) on the ground that the applicant is entitled to the relief unless a claim for the relief has been duly made by him.
- (7) For the purposes of section 86 of the said. Act of 1970 (interest on overdue tax) tax charged by an assessment—
- (a) shall be regarded as due and payable notwithstanding that relief from the tax (whether by discharge or repayment) is subsequently given on a claim for the relief; but
  - (b) shall, unless paid earlier or due and payable later, be regarded as paid on the date of the making of the claim on which the relief is given;
- and section 91 of that Act (effect on interest of reliefs) shall not apply in consequence of any discharge or repayment for giving effect to the relief.

## **62 Assessments for withdrawing relief. 63. Information**

- (1) Where any relief has been given which is subsequently found not to have been due it shall be withdrawn by the making of an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given.
- (2) Subject to the following provisions of this section, any assessment for withdrawing relief which is made by reason of an event occurring after the date of the claim may be made within six years after the end of the year of assessment in which that event occurs.
- (3) No assessment for withdrawing relief in respect of shares issued to any person shall be made by reason of any event occurring after his death.
- (4) Where a person has, by a disposal or disposals to which section 57(1)(a) above applies, disposed of all the ordinary shares issued to him by a company, no assessment for withdrawing relief in respect of any of those shares shall be made by reason of any subsequent event unless it occurs at a time when he is connected with the company within the meaning of section 54 above.
- (5) Subsection (2) above is without prejudice to section 36 of the Taxes Management Act 1970 (fraud and wilful default) and section 37 of that Act (neglect).
- (6) In its application to an assessment made by virtue of this section, section 86 of the said Act of 1970 (interest on overdue tax) shall have effect as if the reckonable date were—
- (a) in the case of relief withdrawn by virtue of section 53(7), 54, 55, 56 or 59(2) in consequence of any event after the grant of the relief, the date of that event;
  - (b) in the case of relief withdrawn by virtue of section 57(1) in consequence of a disposal after the grant of the relief, the date of the disposal;
  - (c) in the case of relief withdrawn by virtue of section 58 in consequence of a receipt of value after the grant of the relief, the date of the receipt;
  - (d) in (the case of relief withdrawn by virtue of section 59(1), the date on which the relief was granted.
- (7) For the purposes of subsection (6) above the date on which the relief is granted is the date on which a repayment of tax for giving effect to the relief was made or, if there was no such repayment, the date on which the inspector issued a notice to the claimant showing the amount of tax payable after giving effect to the relief.

---

*Status: This is the original version (as it was originally enacted).*

---

### **63 Information.**

- (1) Where an event occurs by reason of which any relief given to an individual falls to be withdrawn by virtue of section 54, 57, 58 or 60(6) above the individual shall within sixty days of his coming to know of the event give a notice in writing to the inspector containing particulars of the event.
- (2) Where an event occurs by reason of which any relief in respect of any shares in a company falls to be withdrawn by virtue of section 53(7), 55, 56, 58 or 59 above—
  - (a) the company; and
  - (b) any person connected with the company who has knowledge of that matter, shall within sixty days of the event or, in the case of a person within paragraph (b) above of his coming to know of it, give a notice in writing to the inspector containing particulars of the event or payment.
- (3) Where a company is notified by the inspector that relief has been given in respect of any shares issued by the company on a specified date, then, if any shares in the company (whether or not shares in respect of which relief has been given) are transferred at any time in the period of five years beginning with that date, the company shall within sixty days of—
  - (a) coming to know of the transfer ; or
  - (b) receiving the notification from the inspector,whichever is the later, give a notice in writing to the inspector containing particulars of the transfer.
- (4) If the inspector has reason to believe that a person has not given a notice which he is required to give under subsection (1), (2) or (3) above in respect of any event, the inspector may by notice in writing require that person to furnish him within such time, not being less than sixty days, as may be specified in the notice with such information relating to the event as the inspector may reasonably require for the purposes of this Chapter.
- (5) Where the relief is claimed in respect of shares in a company and the inspector has reason to believe that it may not be due by reason of any such arrangement or scheme as is mentioned in section 54(9), 55(8) or 59(1) above, he may by notice in writing require any person concerned to furnish him within such time, not being less than sixty days, as may be specified in the notice with—
  - (a) a declaration in writing stating whether or not, according to information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed;
  - (b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.
- (6) References in subsection (5) above to the person concerned are, in relation to section 54(9) and 59(1), the claimant and, in relation to section 55(8) and 59(1), the company and any person controlling the company.
- (7) Where relief has been given in respect of shares in a company—
  - (a) any person who receives from the company any payment or asset which may constitute value received (by him or another) for the purposes of section 58 or 59(4) above; and
  - (b) any person on whose behalf such a payment or asset is received,

---

*Status: This is the original version (as it was originally enacted).*

---

shall, if so required by the inspector, state whether the payment or asset received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.

- (8) Where relief has been claimed in respect of shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself and, if so, the name and address of that person.
- (9) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.

## **64 Capital gains tax**

- (1) The sums allowable as deductions from the consideration in the computation for the purposes of capital gains tax of the gain or loss accruing to an individual on the disposal of shares in respect of which any relief has been given and not withdrawn shall be reduced—
- (a) where paragraph (b) below does not apply, by an amount equal to one-half of the amount of the relief ;
  - (b) where those sums exceed the consideration, by an amount equal to—
    - (i) the whole amount of the relief ; or
    - (ii) the excess,whichever is the less ;
- but the foregoing provisions of this subsection shall not apply to a disposal falling within section 44(1) of the Capital Gains Tax Act 1979 (disposals between husband and wife).
- (2) Section 65 of the said Act of 1979 (pooling of shares etc.) shall not apply to shares in respect of which any relief has been given and not withdrawn; and any question whether a disposal relates to such shares or to other shares shall for the purposes of capital gains tax be determined as for the purposes of section 57 above.
- (3) Where an individual holds ordinary shares in a company and the relief has been given in respect of some but not others, then, if there is within the meaning of section 77 of the said Act of 1979 a reorganisation affecting those shares, section 78 of that Act shall apply separately to the shares in respect of which the relief has been given and to the other shares (so that the shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).
- (4) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.

## **65 Application to subsidiaries**

- (1) A qualifying company may in the relevant period have one or more subsidiaries if—
- (a) the conditions in subsection (2) below are satisfied in respect of the subsidiary or each subsidiary and, except as provided in subsection (3) below, continue to be so satisfied until the end of the relevant period ; and

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) the subsidiary or each subsidiary was incorporated in the United Kingdom, did not commence business before the qualifying company did so and complies with the requirements of section 55(2) to (6) above.
- (2) The conditions referred to in subsection (1)(a) above are—
- (a) that the qualifying company possesses all the issued share capital of, and all the voting power in, the subsidiary; and
  - (b) that no other person has control of the subsidiary within the meaning of section 534 of the Taxes Act; and
  - (c) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) and (b) above could cease to be satisfied.
- (3) The conditions referred to in subsection (1)(a) above shall not be regarded as ceasing to be satisfied by reason only of the subsidiary or the qualifying company being wound up or dissolved without winding up if—
- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax ; and
  - (b) the net assets, if any, of the subsidiary or, as the case may be, the qualifying company are distributed to its members or dealt with as bona vacantia before the end of the relevant period, or in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (4) Where a qualifying company has one or more subsidiaries in the relevant period the foregoing provisions of this Chapter shall have effect subject to Schedule 12 to this Act.

## **66 Nominees and approved investment funds**

- (1) Subject to the provisions of this section, shares subscribed for, issued to, held by or disposed of for an individual by a nominee shall be treated for the purposes of this Chapter as subscribed for, issued to, held by or disposed of by that individual.
- (2) Section 53(1) above shall not apply where the amount is subscribed as nominee for an individual by the person or persons having the management of an investment fund approved for the purposes of this section by the Board (" the managers of an approved fund ").
- (3) Any shares issued to the managers of an approved fund as nominee for an individual shall be treated for the purposes of section 53(4) above as shares in respect of which relief has been claimed (whether or not claimed in fact).
- (4) The managers of an approved fund may be treated for the purposes of section 53(5) and (6) above as the claimant in respect of shares issued to them as nominees for an individual.
- (5) Section 63(1) above shall apply to the managers of an approved fund as it would apply to an individual if relief had been given to him in respect of the shares held for him as nominee by the managers (whether or not given in fact).

## **67 Interpretation**

- (1) In this Chapter—



---

*Status: This is the original version (as it was originally enacted).*

---

"associate " has the meaning given in subsection (3) of section 303 of the Taxes Act except that " relative " in that subsection shall not include a brother or sister ;

" control ", except in section 54(7) and section 65(2)(b), shall be construed in accordance with section 302(2) to (6) of that Act;

"director" shall be construed in accordance with section 303(5) of that Act;

" fixed-rate preference share capital" means share capital consisting of shares which—

- (a) are issued for consideration which is or includes new consideration; and
- (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities; and
- (c) do not carry any right to dividends other than dividends which—
  - (i) are of a fixed amount or at a fixed rate per cent, of the nominal value of the shares, and
  - (ii) represent no more than a reasonable commercial return on the new consideration received by the company in respect of the issue of the shares; and
- (d) on repayment do not carry any rights to an amount exceeding that new consideration except in so far as those rights are reasonably comparable with those general for fixed dividend shares listed in the Official List of The Stock Exchange ;

" market value " shall be construed in accordance with section 150 of the Capital Gains Tax Act 1979 ;

" new consideration " has the same meaning as in Part )( of the Taxes Act;

" ordinary shares " means shares forming part of a company's ordinary share capital;

" the relevant period " has the meaning given in section 52(5) above;

"the relief" or "relief" means relief under section 52 above and references to the amount of the relief shall be construed in accordance with subsection (2) of that section.

- (2) Section 533 of the Taxes Act (meaning of connected persons) applies for the purposes of the provisions of this Chapter other than section 54.
- (3) References in this Chapter to a disposal of shares include references to a disposal of an interest or right in or over the shares and an individual shall be treated for the purposes of this Chapter as disposing of any shares which he is treated by virtue of section 86(1) of the Capital Gains Tax Act 1979 as exchanging for other shares.
- (4) References in this Chapter to the reduction of any amount include references to its reduction to nil.