



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

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—
 - (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;

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- (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 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

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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.