



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

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 ;

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- (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 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

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person other than the company and those references shall be construed as including references to any business, profession or vocation.