



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Venture capital trusts

70 Approval of companies as trusts

- (1) After section 842 of the Taxes Act 1988 (investment trusts) there shall be inserted the following section—

“842AA Venture capital trusts

- (1) In the Tax Acts “venture capital trust” means a company which is not a close company and which is for the time being approved for the purposes of this section by the Board; and an approval for the purposes of this section shall have effect as from such time as may be specified in the approval, being a time which, if it falls before the time when the approval is given, is no earlier than—
- (a) in the case of an approval given in the year 1995-96, 6th April 1995; or
 - (b) in any other case, the time when the application for approval was made.
- (2) Subject to the following provisions of this section, the Board shall not approve a company for the purposes of this section unless it is shown to their satisfaction in relation to the most recent complete accounting period of the company—
- (a) that the company’s income in that period has been derived wholly or mainly from shares or securities;
 - (b) that at least 70 per cent. by value of the company’s investments has been represented throughout that period by shares or securities comprised in qualifying holdings of the company;

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- (c) that at least 30 per cent. by value of the company's qualifying holdings has been represented throughout that period by holdings of eligible shares;
 - (d) that no holding in any company, other than a venture capital trust or a company which would qualify as a venture capital trust but for paragraph (e) below, has at any time during that period represented more than 15 per cent. by value of the company's investments;
 - (e) that the shares making up the company's ordinary share capital (or, if there are such shares of more than one class, those of each class) have throughout that period been quoted on the Stock Exchange; and
 - (f) that the company has not retained more than 15 per cent. of the income it derived in that period from shares and securities.
- (3) Where, in the case of any company, the Board are satisfied that the conditions specified in subsection (2) above are fulfilled in relation to the company's most recent complete accounting period, they shall not approve the company for the purposes of this section unless they are satisfied that the conditions will also be fulfilled in relation to the accounting period of the company which is current when the application for approval is made.
- (4) The Board may approve a company for the purposes of this section notwithstanding that conditions specified in subsection (2) above are not fulfilled with respect to that company in relation to its most recent complete accounting period if they are satisfied—
- (a) in the case of any of the conditions specified in paragraphs (a), (d), (e) and (f) of that subsection which are not fulfilled, that the conditions will be fulfilled in relation to the accounting period of the company which is current when the application for approval is made or in relation to its next accounting period;
 - (b) in the case of any of the conditions specified in paragraphs (b) and (c) of that subsection which are not fulfilled, that the conditions will be fulfilled in relation to an accounting period of the company beginning no more than three years after the time when they give their approval or, if earlier, when the approval takes effect; and
 - (c) in the case of every condition which is not fulfilled but with respect to which the Board are satisfied as mentioned in paragraph (a) or (b) above, that the condition will continue to be fulfilled in relation to accounting periods following the period in relation to which they are satisfied as so mentioned.
- (5) For the purposes of subsection (2)(b) to (d) above the value of any holding of investments of any description shall be taken—
- (a) unless—
 - (i) it is added to by a further holding of investments of the same description, or
 - (ii) any such payment is made in discharge, in whole or in part, of any obligation attached to the holding as (by discharging the whole or any part of that obligation) increases the value of the holding,to be its value when acquired, and
 - (b) where it is so added to or such a payment is made, to be its value immediately after the most recent addition or payment.

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- (6) The Board may withdraw their approval of a company for the purposes of this section wherever it at any time appears to them that there are reasonable grounds for believing—
- (a) that the conditions for the approval of the company were not fulfilled at the time of the approval;
 - (b) in a case where the Board were satisfied for the purposes of subsection (3) or (4) above that a condition would be fulfilled in relation to any period, that that condition is one which will not be or, as the case may be, has not been fulfilled in relation to that period;
 - (c) in the case of a company approved in pursuance of subsection (4) above, that the company has not fulfilled such other conditions as may be prescribed by regulations made by the Board in relation to, or to any part of, the period of three years mentioned in subsection (4)(b) above; or
 - (d) that the company's most recent complete accounting period or its current one is a period in relation to which there has been or will be a failure of a condition specified in subsection (2) above to be fulfilled, not being a failure which, at the time of the approval, was allowed for in relation to that period by virtue of subsection (4) above.
- (7) Subject to subsections (8) and (9) below, the withdrawal of the approval of any company for the purposes of this section shall have effect as from the time when the notice of the withdrawal is given to the company.
- (8) If, in the case of a company approved for the purposes of this section in exercise of the power conferred by subsection (4) above, the approval is withdrawn at a time before all the conditions specified in subsection (2) above have been fulfilled with respect to that company in relation either—
- (a) to a complete accounting period of twelve months, or
 - (b) to successive complete accounting periods constituting a continuous period of twelve months or more,
- the withdrawal of the approval shall have the effect that the approval shall, for all purposes, be deemed never to have been given.
- (9) A notice withdrawing the approval of a company for the purposes of this section may specify a time falling before the time mentioned in subsection (7) above as the time as from which the withdrawal is to be treated as having taken effect for the purposes of section 100 of the 1992 Act; but the time so specified shall be no earlier than the beginning of the accounting period in relation to which it appears to the Board that the condition by reference to which the approval is withdrawn has not been, or will not be, fulfilled.
- (10) Notwithstanding any limitation on the time for making assessments, an assessment to any tax chargeable in consequence of the withdrawal of any approval given for the purposes of this section may be made at any time before the end of the period of three years beginning with the time when the notice of withdrawal is given.
- (11) The following provisions of section 842 shall apply as follows for the purposes of this section as they apply for the purposes of that section, that is to say—
- (a) subsections (1A) and (2) of that section shall apply in relation to subsection (2)(d) above (but with the omission of subsection (2)(a)

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- of that section) as they apply in relation to subsection (1)(b) of that section;
- (b) subsections (2A) to (2C) of that section shall apply in relation to subsection (2)(f) above as they apply in relation to subsection (1)(e) of that section; and
 - (c) without prejudice to their application in relation to provisions applied by paragraph (a) or (b) above, subsections (3) and (4) of that section shall apply in relation to any reference in this section to a holding or an addition to a holding as they apply in relation to any such reference in that section.
- (12) In this section, and in the provisions of section 842 as applied for the purposes of this section, “securities”, in relation to any company—
- (a) includes any liability of the company in respect of a loan (whether secured or not) which has been made to the company on terms that do not allow any person to require the loan to be repaid, or any stock or security relating to that loan to be re-purchased or redeemed, within the period of five years from the making of the loan or, as the case may be, the issue of the stock or security; but
 - (b) does not include any stock or security relating to a loan which has been made to the company on terms which allow any person to require the loan to be repaid, or the stock or security to be re-purchased or redeemed, within that period.
- (13) Schedule 28B shall have effect for construing the references in this section to a qualifying holding.
- (14) In this section “eligible shares” means shares in a company which are comprised in the ordinary share capital of the company and carry no present or future preferential right to dividends or to the company’s assets on its winding up and no present or future preferential right to be redeemed.”
- (2) Schedule 14 to this Act (meaning of “qualifying holdings”) shall be inserted, before Schedule 29 to the Taxes Act 1988, as Schedule 28B to that Act, and shall be construed accordingly.

71 **Income tax relief**

- (1) In Chapter IV of Part VII of the Taxes Act 1988 (special provisions), after section 332 there shall be inserted the following section—

“332A Venture capital trusts: relief

Schedule 15B shall have effect for conferring relief from income tax in respect of investments in venture capital trusts and distributions by such trusts.”

- (2) Schedule 15 to this Act (relief in respect of holdings in a venture capital trust) shall be inserted, before Schedule 16 to the Taxes Act 1988, as Schedule 15B to that Act, and shall be construed accordingly.
- (3) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions)—
- (a) after the entry in the first column relating to paragraph 14(5) of Schedule 15 to the Taxes Act 1988 there shall be inserted the following entry—

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- “Schedule 15B, paragraph 5(2);” and
- (b) after the entry in the second column relating to paragraph 14(4) of Schedule 15 to the Taxes Act 1988 there shall be inserted the following entry—

“Schedule 15B, paragraph 5(1);”.

- (4) This section has effect for the year 1995-96 and subsequent years of assessment.

72 Capital gains

- (1) The Taxation of Chargeable Gains Act 1992 shall be amended as follows.
- (2) In section 100(1) (exemption from charge for gains accruing to authorised unit trusts, investment trusts etc.), after “investment trust” there shall be inserted “a venture capital trust”.
- (3) In Chapter III of Part IV (miscellaneous provisions relating to securities), after section 151 there shall be inserted the following sections—

“151A Venture capital trusts: reliefs

- (1) A gain or loss accruing to an individual on a qualifying disposal of any ordinary shares in a company which—
- (a) was a venture capital trust at the time when he acquired the shares, and
 - (b) is still such a trust at the time of the disposal,
- shall not be a chargeable gain or, as the case may be, an allowable loss.
- (2) For the purposes of this section a disposal of shares is a qualifying disposal in so far as—
- (a) it is made by an individual who has attained the age of eighteen years;
 - (b) the shares disposed of were not acquired in excess of the permitted maximum for any year of assessment; and
 - (c) that individual acquired those shares for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.
- (3) Schedule 5C shall have effect for providing relief in respect of gains invested in venture capital trusts.
- (4) In determining for the purposes of this section whether a disposal by any person of shares in a venture capital trust relates to shares acquired in excess of the permitted maximum for any year of assessment, it shall be assumed (subject to subsection (5) below)—
- (a) as between shares acquired by the same person on different days, that those acquired on an earlier day are disposed of by that person before those acquired on a later day; and
 - (b) as between shares acquired by the same person on the same day, that those acquired in excess of the permitted maximum are disposed of by that person before he disposes of any other shares acquired on that day.

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- (5) It shall be assumed for the purposes of subsection (1) above that a person who disposes of shares in a venture capital trust disposes of shares acquired at a time when it was not such a trust before he disposes of any other shares in that trust.
- (6) References in this section to shares in a venture capital trust acquired in excess of the permitted maximum for any year of assessment shall be construed in accordance with the provisions of Part II of Schedule 15B to the Taxes Act; and the provisions of that Part of that Schedule shall apply (with subsections (4) and (5) above) for identifying the shares which are, in any case, to be treated as representing shares acquired in excess of the permitted maximum.
- (7) In this section and section 151B “ordinary shares”, in relation to a company, means any shares forming part of the company’s ordinary share capital (within the meaning of the Taxes Act).

151B Venture capital trusts: supplementary

- (1) Sections 104, 105 and 107 shall not apply to any shares in a venture capital trust which are eligible for relief under section 151A(1).
- (2) Subject to the following provisions of this section, where—
 - (a) an individual holds any ordinary shares in a venture capital trust,
 - (b) some of those shares fall within one of the paragraphs of subsection (3) below, and
 - (c) others of those shares fall within at least one other of those paragraphs,
 then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply separately in relation to the shares (if any) falling within each of the paragraphs of that subsection (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).
- (3) The kinds of shares referred to in subsection (2) above are—
 - (a) any shares in a venture capital trust which are eligible for relief under section 151A(1) and by reference to which any person has been given or is entitled to claim relief under Part I of Schedule 15B to the Taxes Act;
 - (b) any shares in a venture capital trust which are eligible for relief under section 151A(1) but by reference to which no person has been given, or is entitled to claim, any relief under that Part of that Schedule;
 - (c) any shares in a venture capital trust by reference to which any person has been given, or is entitled to claim, any relief under that Part of that Schedule but which are not shares that are eligible for relief under section 151A(1); and
 - (d) any shares in a venture capital trust that do not fall within any of paragraphs (a) to (c) above.
- (4) Where—
 - (a) an individual holds ordinary shares in a company (“the existing holding”),

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- (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and
- (c) immediately following the reorganisation, the shares or the allotted holding are shares falling within any of paragraphs (a) to (c) of subsection (3) above,

sections 127 to 130 shall not apply in relation to the existing holding.

(5) Sections 135 and 136 shall not apply where—

- (a) the exchanged holding consists of shares falling within paragraph (a) or (b) of subsection (3) above; and
- (b) that for which the exchanged holding is or is treated as exchanged does not consist of ordinary shares in a venture capital trust.

(6) Where—

- (a) the approval of any company as a venture capital trust is withdrawn, and
- (b) the withdrawal of the approval is not one to which section 842AA(8) of the Taxes Act applies,

any person who at the time when the withdrawal takes effect is holding shares in that company which (apart from the withdrawal) would be eligible for relief under section 151A(1) shall be deemed for the purposes of this Act, at that time, to have disposed of and immediately re-acquired those shares for a consideration equal to their market value at that time.

(7) The disposal that is deemed to take place by virtue of subsection (6) above shall be deemed for the purposes of section 151A to take place while the company is still a venture capital trust; but, for the purpose of applying sections 104, 105 and 107 to the shares that are deemed to be re-acquired, it shall be assumed that the re-acquisition for which that subsection provides takes place immediately after the company ceases to be such a trust.

(8) For the purposes of this section—

- (a) shares are eligible for relief under section 151A(1) at any time when they are held by an individual whose disposal of the shares at that time would (on the assumption, where it is not the case, that the individual attained the age of eighteen years before that time) be a disposal to which section 151A(1) would apply; and
- (b) shares shall not, in relation to any time, be treated as shares by reference to which relief has been given under Part I of Schedule 15B to the Taxes Act if that time falls after—
 - (i) any relief given by reference to those shares has been reduced or withdrawn,
 - (ii) any chargeable event (within the meaning of Schedule 5C) has occurred in relation to those shares, or
 - (iii) the death of a person who held those shares immediately before his death;

and

- (c) the references, in relation to sections 135 and 136, to the exchanged holding is a reference to the shares in company B or, as the case may

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be, to the shares or debentures in respect of which shares or debentures are issued under the arrangement in question.”

- (4) Schedule 16 to this Act (relief on re-investment in venture capital trusts) shall be inserted before Schedule 6, as Schedule 5C, and shall be construed accordingly.
- (5) In section 257(1) (gifts to charities etc.), after paragraph (b) there shall be inserted—
- “and the disposal is not one in relation to which section 151A(1) has effect.”
- (6) In section 260, after the subsection (6A) inserted by Schedule 13 to this Act (no reduction in the case of a disposal which is a chargeable event for the purposes of Schedule 5B), there shall be inserted—
- “(6B) Subsection (3) above does not apply, so far as any gain accruing in accordance with paragraphs 4 and 5 of Schedule 5C is concerned, in relation to the disposal which constitutes the chargeable event by virtue of which that gain accrues.”
- (7) In section 288(1) (interpretation), after the definition of “trading stock” there shall be inserted the following definition—
- ““venture capital trust” has the meaning given by section 842AA of the Taxes Act;”.
- (8) Subsection (2) above shall have effect in relation to gains accruing on or after 6th April 1995 and the other provisions of this section have effect for the year 1995-96 and subsequent years of assessment.

73 Regulations

- (1) The Treasury may by regulations make such provision as they may consider appropriate for—
- (a) giving effect to any relief for which provision is made by Schedule 15B to the Taxes Act 1988 or section 151A of, and Schedule 5C to, the Taxation of Chargeable Gains Act 1992; and
 - (b) preventing such relief from being given except where a claim is made in accordance with the regulations and where such other requirements as may be imposed by the regulations have been complied with.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
- (a) as to the making of applications for approvals under section 842AA of the Taxes Act 1988 and otherwise as to the procedure in relation to any such applications and the giving of such approvals;
 - (b) as to the procedure to be followed in connection with the withdrawal of any such approval;
 - (c) as to the manner in which, and the persons by whom, relief is to be claimed;
 - (d) as to the obligations of a company which is a venture capital trust if it should appear to the company that the conditions for it to continue to be approved as such a trust are not satisfied;
 - (e) as to the accounts, records, returns and other information to be kept, and furnished or otherwise made available to the Board, by companies which are

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- or have been venture capital trusts and by persons who hold or have held shares in such companies; and
- (f) as to the persons liable to account for any tax becoming due where the approval of a company as a venture capital trust is withdrawn.
- (3) Regulations under this section may make provision, in relation to tax credits to which any persons are entitled in respect of distributions of venture capital trusts—
- (a) for the credits not to be set against income tax but to be claimed by and paid to the trusts; and
- (b) for amounts equal to the credits to be paid by the trusts to the persons who receive or are entitled to receive the distributions;
- and any such regulations may provide for sections 234 and 252 of the Taxes Act 1988 (information relating to distributions and rectification of excessive tax credit) to have effect, in relation to the distributions of venture capital trusts or, as the case may be, any provision made by virtue of paragraph (a) or (b) above, with such modifications as may be specified in the regulations.
- (4) Regulations under this section may apply the following provisions of the Management Act, as they have effect in the case of repayments in respect of income tax, in relation to cases where amounts are paid to any person in pursuance of regulations made by virtue of subsection (3) above, that is to say—
- (a) section 29(3)(c) (excessive relief);
- (b) section 30 (tax repaid in error);
- (c) section 88 (interest); and
- (d) section 95 (incorrect return or accounts).
- (5) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions), at the end of the entries in the second column there shall be inserted the following entry—
- “regulations under section 73 of the Finance Act 1995;”.
- (6) In this section “venture capital trust” has the meaning given by section 842AA of the Taxes Act 1988.