

## SCHEDULES

### SCHEDULE 16

#### COMMUNITY INVESTMENT TAX RELIEF

#### PART 3

#### QUALIFYING INVESTMENTS

##### *Introduction*

- 8 For the purposes of this Schedule the investment is a “qualifying investment” in the CDFI if—
- (a) the investment consists of—
    - (i) a loan in relation to which the conditions of paragraph 9 are satisfied,
    - (ii) securities in relation to which the conditions of paragraph 10 are satisfied, or
    - (iii) shares in relation to which the conditions of paragraph 11 are satisfied;
  - (b) the investor receives from the CDFI a valid tax relief certificate in relation to the investment (see paragraph 12); and
  - (c) the requirements of paragraph 13 are met in relation to pre-arranged protection against risks.

##### *Conditions to be satisfied in relation to loans*

- 9 (1) The first condition of this paragraph is that either—
- (a) the CDFI receives from the investor, on the investment date, the full amount of the loan, or
  - (b) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the end of that period is not later than 18 months after the investment date.
- (2) The second condition is that the loan must not carry any present or future right to be converted into or exchanged for a loan which is, or securities, shares, or other rights which are, redeemable within the five year period.
- (3) The third condition is that the loan must not have been made on terms that allow any person to require—
- (a) the repayment during the first two years of the five year period of any of the loan capital advanced in those two years,
  - (b) the repayment during the third year of that period of more than 25% of the loan capital outstanding at the end of those two years,

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- (c) the repayment before the end of the fourth year of that period of more than 50% of that loan capital, or
  - (d) the repayment before the end of that period of more than 75% of that loan capital.
- (4) For the purposes of sub-paragraph (3), any requirement arising as a consequence of a failure of the CDFI to fulfil any obligation of the loan agreement shall be disregarded if that obligation—
- (a) is imposed by reason only of the commercial risks to which the investor is exposed as lender under that agreement, and
  - (b) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Schedule.
- (5) The Treasury may by order substitute for any percentage for the time being specified in sub-paragraph (3) such other percentage as they think fit; and any such substitution shall have effect in relation to loans made by a person on or after such date as may be specified in the order.

*Conditions to be satisfied in relation to securities*

- 10 (1) The first condition of this paragraph is that the securities must be—
- (a) subscribed for wholly in cash, and
  - (b) fully paid for on the investment date.
- (2) The second condition is that the securities must not carry—
- (a) any present or future right to be redeemed within the five year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.

*Conditions to be satisfied in relation to shares*

- 11 (1) The first condition of this paragraph is that the shares must be—
- (a) subscribed for wholly in cash, and
  - (b) fully paid up on the investment date.
- Shares are not fully paid up for the purposes of paragraph (b) if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the shares.
- (2) The second condition is that the shares must not carry—
- (a) any present or future right to be redeemed during the five year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.

*Tax relief certificates*

- 12 (1) For the purposes of this Schedule a “tax relief certificate” means a certificate issued by the CDFI in respect of the investment, which is in such form as the Board may specify.
- (2) The CDFI must not, in relation to an accreditation period—

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- (a) if it is accredited for that period as a retail community development finance institution (see paragraph 4(7)), issue tax relief certificates in respect of investments made in the CDFI in that period with an aggregate value exceeding £10 million, and
  - (b) in any other case, issue tax relief certificates in respect of investments made in the CDFI in that period with an aggregate value exceeding £20 million.
- (3) For the purposes of sub-paragraph (2) the value of an investment made in the CDFI is—
- (a) if the investment consists of a loan—
    - (i) the amount of the loan, or
    - (ii) where the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the amount committed under the loan agreement; and
  - (b) if the investment consists of securities or shares, the amount subscribed for them.
- (4) The Treasury may, by order, substitute for any amount for the time being specified in sub-paragraph (2) such other amount as they think fit.
- (5) Any such substitution shall have effect in relation to such accreditation periods as may be specified in the order; and those periods may, if the substitution increases the amount for the time being specified in sub-paragraph (2), include periods beginning before the order takes effect.
- (6) Any tax relief certificate issued wholly or partly in contravention of sub-paragraph (2) is invalid.
- (7) A body is liable to a penalty not exceeding £3000 if it issues a tax relief certificate which is made fraudulently or negligently.

*Pre-arranged protection against risks*

- 13 (1) Any arrangements—
- (a) under which the investment is made, or
  - (b) made, before the investor makes the investment, in relation to or in connection with the making of the investment,
- must not include arrangements (“excluded arrangements”) the main purpose of which, or one of the main purposes of which, is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for the investor against what would otherwise be the risks attached to making the investment.
- (2) For the purposes of sub-paragraph (1), excluded arrangements do not include any arrangements which are confined to the provision for the investor of any such protection against those risks as might reasonably be expected to be provided for commercial reasons if the investment were made in the course of a business of banking.
- (3) For the purposes of this paragraph “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.