

SCHEDULES

SCHEDULE 16

COMMUNITY INVESTMENT TAX RELIEF

PART 8

SUPPLEMENTARY AND GENERAL

Information to be provided by the investor

- 42 (1) Where—
- (a) the investor has obtained relief in respect of the investment, and
 - (b) an event occurs by reason of which relief attributable to the investment for any tax year or accounting period falls to be withdrawn or reduced by virtue of paragraph 28, 29, 30 or 32,
- the investor must give the Inland Revenue a notice containing particulars of the event.
- (2) Where sub-paragraph (1) requires the giving of a notice, then, subject to sub-paragraph (3) the investor must give the notice not later than—
- (a) if the investor is an individual, 31st January next following the tax year in which the event occurred, and
 - (b) if the investor is a company, the end of the period of 12 months beginning with the end of the accounting period in which the event occurred.
- (3) Where—
- (a) the investor is required to give a notice by virtue of the receipt of value by a person connected with the investor (see paragraph 39), and
 - (b) the end of the period of 60 days beginning when the investor comes to know of that event is later than the final notice date under sub-paragraph (2),
- the notice must be given within that 60 day period.
- (4) In this paragraph “the Inland Revenue” means any officer of the Board.

Disclosure

- 43 (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise prevents the disclosure of information—
- (a) by the Secretary of State to the Inland Revenue for the purpose of assisting the Inland Revenue to discharge their functions under the Tax Acts so far as relating to matters arising under this Schedule, or
 - (b) by the Inland Revenue to the Secretary of State for the purpose of assisting the Secretary of State to discharge his functions under this Schedule.

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(2) Information obtained by such disclosure shall not be further disclosed except for the purposes of legal proceedings arising out of the functions referred to.

(3) In this paragraph “the Inland Revenue” means any officer of the Board.

Nominees

- 44 (1) For the purposes of this Schedule—
- (a) loans made by or to, or disposed of by, a nominee for a person shall be treated as made by or to, or disposed of by, that person;
 - (b) securities or shares subscribed for by, issued to, acquired or held by or disposed of by a nominee for a person shall be treated as subscribed for by, issued to, acquired or held by or disposed of by that person.
- (2) For the purposes of sub-paragraph (1) references to things done by or to a nominee for a person include things done by or to a bare trustee for a person.

Application for postponement of tax pending appeal

- 45 No application shall be made under section 55(3) or (4) of the Taxes Management Act 1970 (c. 9) (application for postponement of payment of tax pending appeal) on the ground that a person is eligible for relief unless a claim for the relief has been duly made by the person under Part 5 of this Schedule.

Meaning of “issue of securities or shares”

- 46 (1) In this Schedule—
- (a) references (however expressed) to an issue of securities of any body are to such securities of that body as carry the same rights and are issued under the same terms and on the same day, and
 - (b) references (however expressed) to an issue of shares in any body are to such shares in that body as are of the same class and issued on the same day.
- (2) In this Schedule references (however expressed) to an issue of securities of or shares in a body to a person are references to such of the securities or shares in an issue of securities of or shares in that body as are issued to that person in one capacity.

Identification of securities or shares on a disposal

- 47 (1) In any case where—
- (a) the investor disposes of part of a holding of securities or shares (“the holding”), and
 - (b) the holding includes securities or shares to which relief is attributable in respect of one or more tax years or accounting periods that have been held continuously by the investor from the time they were issued until the disposal,
- this paragraph applies for the purpose of identifying the securities or shares disposed of.
- (2) For the purposes of this paragraph “holding” means—
- (a) any number of securities of a company carrying the same rights and issued under the same terms held by the investor in the same capacity, growing or

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- diminishing as securities carrying those rights and issued under those terms are acquired or disposed of, or
- (b) any number of shares in a company of the same class held by the investor in the same capacity, growing or diminishing as shares of that class are acquired or disposed of.
- (3) Where securities or shares included in the holding have been acquired by the investor on different days, then, for the purposes of capital gains tax or corporation tax on chargeable gains and of this Schedule, any disposal by the investor of any of those securities or shares shall be treated as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (4) Where securities or shares included in the holding have been acquired by the investor on the same day, then, for the purposes of capital gains tax or corporation tax on chargeable gains and of this Schedule, if there is a disposal by the investor of any of those securities or shares, any securities or shares—
- (a) to which relief is attributable, and
- (b) which have been held by the investor continuously from the time they were issued until the time of disposal,
- shall be treated as disposed of after any other securities or shares included in the holding which were acquired by the investor on that day.
- (5) Chapter 1 of Part 4 of the 1992 Act (share pooling, etc) shall have effect subject to this paragraph.
- (6) Sections 104 to 107 of that Act (which make provision for the purposes of capital gains tax and corporation tax on chargeable gains for the identification of securities and shares on a disposal) shall not apply to securities or shares to which relief is attributable.
- (7) In a case to which section 127 of that Act (equation of original shares and new holding) applies, shares comprised in the new holding shall be treated for the purposes of sub-paragraphs (3) and (4) as acquired when the original shares were acquired.
- (8) In sub-paragraph (7)—
- (a) the reference to section 127 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and
- (b) “original shares” and “new holding” have the same meaning as in section 127 or (as the case may be) that section as applied by virtue of the enactment in question.

Meaning of “disposal”

- 48 (1) Subject to sub-paragraph (2), in this Schedule “disposal” shall be construed in accordance with the 1992 Act, and cognate expressions shall be construed accordingly.
- (2) An investor shall be treated for the purposes of this Schedule, and for the purposes of capital gains tax or corporation tax on chargeable gains, as disposing of any securities or shares which but for paragraph 41 he—
- (a) would be treated as exchanging for other securities or shares by virtue of section 136 of the 1992 Act, or

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- (b) would be so treated but for section 137(1) of the 1992 Act (which restricts section 136 of that Act to bona fide reconstructions).

Construction of references to investment being “held continuously”

- 49 (1) This paragraph applies where for the purposes of this Schedule it falls to be determined whether the investor has held the investment (or any part of it) continuously throughout any period.
- (2) The investor shall not be treated as having held the investment (or any part of it) continuously throughout a period if—
- (a) he is deemed, under any provision of the 1992 Act, to have disposed of and immediately reacquired the investment (or part) at any time during the period, or
 - (b) he is treated as having disposed of the investment (or part) at any such time, by virtue of paragraph 48(2).

Meaning of “associate”

- 50 (1) In this Schedule “associate”, in relation to a person, means—
- (a) any relative or partner of that person,
 - (b) the trustee or trustees of any settlement in relation to which that person, or any relative of his (living or dead), is or was a settlor, and
 - (c) where that person is interested in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person—
 - (i) the trustee or trustees of the settlement concerned or, as the case may be, the personal representatives of the deceased, and
 - (ii) if that person is a company, any other company interested in those shares or obligations.
- (2) In sub-paragraph (1)(a) and (b) “relative” means husband or wife, parent or remoter forebear or child or remoter issue.
- (3) In sub-paragraph (1)(b) “settlor” and “settlement” have the same meaning as in Chapter 1A of Part 15 of the Taxes Act 1988 (see section 660G(1) and (2)).

Minor definitions etc

- 51 (1) In this Schedule—
- “the Board” means the Commissioners of Inland Revenue;
 - “body” includes an unincorporated association;
 - “relief” means relief under Part 5 of this Schedule;
 - “tax year” means a year of assessment;
 - “the 1992 Act” means the Taxation of Chargeable Gains Act 1992 (c. 12).
- (2) For the purposes of this Schedule shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on the Stock Exchange.
- (3) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this Schedule.

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- (4) For the purposes of this Schedule the market value at any time of any asset is the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it.
- (5) In this Schedule—
- (a) references to relief obtained by the investor in respect of any investment (or part of an investment) include references to relief obtained by the investor in respect of that investment (or part) at any time after the investor has disposed of it, and
 - (b) references to the withdrawal or reduction of relief obtained by the investor in respect of the investment (or any part of it) include references to the withdrawal or reduction of relief obtained in respect of that investment (or part) at any such time.
- (6) In the case of any condition that cannot be satisfied until a future date—
- (a) references in this Schedule to a condition being satisfied for the time being are to nothing having occurred to prevent its being satisfied, and
 - (b) references to its continuing to be satisfied are to nothing occurring to prevent its being satisfied.

Index of defined expressions

52 In this Schedule the following expressions are defined or otherwise explained by the provisions indicated:

associate	paragraph 50
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body	paragraph 51(1)
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the five year period	paragraph 3
held continuously (in relation to securities or shares)	paragraph 49
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the investment	paragraph 1
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owner (in relation to a loan)	paragraph 15(2)
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