

SCHEDULES

SCHEDULE 33

VENTURE CAPITAL TRUSTS

PART 2

VENTURE CAPITAL TRUSTS: MERGERS

Power to facilitate mergers of VCTs

- 8 (1) The Treasury may by regulations make provision authorised by paragraph 9 for cases where—
- (a) there is a merger of two or more companies each of which is a venture capital trust immediately before the merger begins to be effected, and
 - (b) the merger is for *bona fide* commercial reasons and is not part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.
- (2) Provision made by regulations under sub-paragraph (1) applies—
- (a) in cases, and
 - (b) subject to conditions (including conditions requiring approvals to be obtained),
- specified by the regulations.
- (3) Provision made by regulations under sub-paragraph (1) may apply in relation to any merger where the transactions for effecting the merger take place on or after 17th April 2002.

Provision that may be made by regulations under paragraph 8(1)

- 9 (1) The provision that may be made under paragraph 8(1) for a case where there is a merger of two or more companies (“the merging companies”) is—
- (a) provision for the successor company, or any of the merging companies, to be treated (whether at times before, during or after the merger) as a venture capital trust for purposes of tax enactments specified by regulations;
 - (b) provision for paragraph 3 of Schedule 15B to the Taxes Act 1988 (loss of relief on disposal of VCT shares within three years of their issue) not to apply in the case of disposals of shares in a merging company made in the course of effecting the merger;
 - (c) provision for such disposals not to be chargeable events for the purposes of Schedule 5C to the Taxation of Chargeable Gains Act 1992 (c. 12) (VCTs: deferred charge on re-investment);
 - (d) provision for conditions specified in section 842AA(2) of the Taxes Act 1988 (conditions for approval as a VCT) to be treated (whether at times before,

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during or after the merger) for purposes of section 842AA(2) and (3) of that Act as fulfilled, or as conditions that will be fulfilled, with respect to the successor company or any of the merging companies;

- (e) provision for shares in or securities of a company that are acquired (whether at times before, during or after the merger) by the successor company from a merging company to be treated, at times after the acquisition when they are held by the successor company, as meeting requirements of Schedule 28B to the Taxes Act 1988 (provisions for determining whether shares or securities held by a venture capital trust form part of its qualifying holdings);
- (f) provision for tax enactments specified by regulations to apply, with or without adaptations, in relation to the merger or transactions taking place (whether before, during or after the merger) in connection with the merger;
- (g) provision authorising disclosure for tax purposes connected with the merger—
 - (i) by the Board or officers of the Board,
 - (ii) to any of the merging companies or the successor company,
 - (iii) of any information provided to the Board, or any officer of the Board, by or on behalf of any of the merging companies or the successor company.

(2) In this paragraph “securities” has the same meaning as in section 842AA of the Taxes Act 1988.

Meaning of “merger” and “successor company”

- 10 (1) For the purposes of this Part of this Schedule there is a merger of two or more companies (“the merging companies”) if—
- (a) shares in one of the merging companies (“company A”) are issued to members of the other merging company or companies, and
 - (b) the shares issued to members of the other merging company or, in the case of each of the other merging companies, the shares issued to members of that other company, are issued—
 - (i) in exchange for their shares in that other company, or
 - (ii) by way of consideration for a transfer to company A of the whole or part of the business of that other company.
- (2) For the purposes of this Part of this Schedule there is also a merger of two or more companies (“the merging companies”) if—
- (a) shares in a company (“company B”) that is not one of the merging companies are issued to members of the merging companies, and
 - (b) in the case of each of the merging companies, the shares issued to members of that company are issued—
 - (i) in exchange for their shares in that company, or
 - (ii) by way of consideration for a transfer to company B of the whole or part of the business of that company.
- (3) In this Part of this Schedule “the successor company”—
- (a) in relation to a merger such as is described in sub-paragraph (1), means the company that fulfils the role of company A, and
 - (b) in relation to a merger such as is described in sub-paragraph (2), means the company that fulfils the role of company B.