

## SCHEDULES

### SCHEDULE 15

#### ENTERPRISE INVESTMENT SCHEME: AMENDMENTS

##### PART 1

##### INCOME TAX RELIEF

###### *Introductory*

- 1 Chapter 3 of Part 7 of the Taxes Act 1988 is amended in accordance with this Part.

###### *Oil activities*

- 2 In section 289 (eligibility for income tax relief)—
- (a) in subsection (1C) (meaning of “the active company”) for “, research and development or oil exploration” substitute “or research and development”,
  - (b) in subsection (2)—
    - (i) at the end of paragraph (a) insert “or”, and
    - (ii) omit paragraph (c) (which relates to the treatment of oil exploration as a qualifying business activity), and
  - (c) omit subsections (4) and (5) (which make provision supplemental to section 289(2)(c)).
- 3 In section 289A (form of relief), in subsection (7) (which specifies conditions to be satisfied before a claim for relief is allowed)—
- (a) after paragraph (a) insert “and”, and
  - (b) omit paragraph (c) (condition to be satisfied in a case involving oil exploration).
- 4 In section 293 (qualifying company), in subsection (3B)(b) omit “and oil exploration”.
- 5 In section 297 (qualifying trades) omit—
- (a) subsection (2)(d) (oil extraction activities not to amount to substantial part of the trade); and
  - (b) subsection (9) (oil extraction activities treated as qualifying trade for purposes of section 289(2)(c)).

###### *Requirement as to the money raised*

- 6 In section 289 (eligibility for relief)—
- (a) in subsection (1) (conditions of eligibility for income tax relief), for paragraph (c) (requirement that all of the money raised is employed

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for purposes of qualifying business activity within prescribed period) substitute—

- “(c) at least 80% of the money raised by the issue mentioned in paragraph (b) above is employed wholly for the purpose of the activity mentioned in that paragraph not later than the time mentioned in subsection (3) below, and
- (d) all of the money so raised is employed wholly for that purpose not later than 12 months after that time.”, and
- (b) in subsection (3) for “condition in subsection (1)(c) above does” substitute “conditions in subsection (1)(c) and (d) above do”.

7 In section 307 (withdrawal of relief)—

- (a) in subsection (1A) for “section 289(1)(b), (ba) or (c)” substitute “section 289(1)(b), (ba), (c) or (d)”, and
- (b) in subsection (6)(aa) for “section 289(1)(c)” substitute “section 289(1)(c) or (d)”.

8 In section 310 (information), in subsection (2) for “289(1)(ba) or (c)” substitute “289(1)(ba), (c) or (d)”.

#### *Repayment supplements*

- 9 (1) In section 289A (form of relief), omit subsection (9) (modification of provisions relating to repayment supplements where effect given to claim for relief by repayment of tax).
- (2) The amendment made by this paragraph has effect in relation to repayments of tax on or after 7th March 2001.

#### *Designated period*

10 In section 291 (individuals qualifying for relief), for subsection (1)(b) (requirement that individual is not connected with the issuing company at any time in the designated period) substitute—

- “(b) subject to section 291A(4), he is not at any time in the period—
  - (i) beginning two years before the issue of the shares, and
  - (ii) ending immediately before the termination date relating to those shares,
 connected with the company (whether before or after its incorporation).”.

11 In section 291A (connected persons: directors), in subsection (1)(a) for “the designated period” substitute “the period mentioned in section 291(1)(b)”.

#### *Unquoted company requirement*

12 (1) In section 293 (qualifying companies), after subsection (1) insert—

- “(1A) At the beginning of the relevant period, the company must be—
  - (a) an unquoted company, and
  - (b) a company to which subsection (1B) below does not apply.

(1B) This subsection applies to a company—

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- (a) if arrangements are in existence for it to cease to be an unquoted company; or
    - (b) if—
      - (i) arrangements are in existence for it to become a subsidiary of another company (“the new company”) by virtue of an exchange of shares, or shares and securities, in relation to which section 304A (certain exchanges resulting in acquisition of share capital by new company) applies, and
      - (ii) arrangements have been made with a view to the new company ceasing to be an unquoted company.”.
  - (2) In subsection (2) of that section (requirement that, throughout the relevant period, the company is an unquoted company etc.) omit “be an unquoted company and”.
- 13 In section 312 (interpretation), in subsection (1E) (unquoted company status not lost by reason of subsequent designation, by order, of stock exchange or means of dealing)—
- (a) after “are issued” insert “(“the relevant time””, and
  - (b) for the words “listed” to the end substitute—
    - “(a) listed on a stock exchange that is a recognised stock exchange by virtue of an order made under section 841, or
    - (b) listed on an exchange, or dealt in by any means, designated by an order made for the purposes of subsection (1B) above,
- if the order was made after the relevant time.”.

#### *Royalties and licence fees*

- 14 (1) In relation to shares issued on or after 6th April 2000, section 293 (qualifying companies) has effect, and shall be deemed always to have had effect, with the following amendment.
- (2) In subsection (3C) for “the requirements mentioned in paragraphs (a) and (b) of section 297(4) or (5) are” substitute “the requirement mentioned in section 297(4) is”.

#### *Value received by individual etc.*

- 15 (1) In section 300 (value received from company etc.), in subsection (1) after “value” insert “(other than insignificant value)”.
- (2) In that subsection for “designated period” substitute “period of restriction”.
- (3) After subsection (1A) of that section insert—
- “(1AA) This section is subject to section 300A.”.
- (4) After subsection (1B) of that section insert—
- “(1BA) Where—
- (a) an individual subscribes for two or more issues of eligible shares in a company, being issues comprising shares in respect of which the individual obtains relief, and

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- (b) the individual receives any value from the company at any time in the periods of restriction relating to the shares comprised in two or more of those issues,

this section has effect in relation to the shares comprised in each of the issues referred to in paragraph (b) above as if the amount of the value received were reduced by multiplying it by the fraction specified in subsection (1BB) below.

(1BB) The fraction is—

$$\frac{A}{B}$$

where—

A is the amount subscribed by the individual for the eligible shares comprised in the issue in question, and

B is the aggregate of that amount and the corresponding amount or amounts for eligible shares comprised in the other issue or issues.

(1BC) Where—

- (a) an individual who subscribes for eligible shares in a company receives value (“the relevant receipt”) from the company during the period of restriction,
- (b) the individual has received from the company one or more receipts of insignificant value at a time or times—
- (i) during that period, but
  - (ii) not later than the time of the relevant receipt, and
- (c) the aggregate amount of the value of the receipts within paragraphs (a) and (b) above is not an amount of insignificant value,

the individual shall be treated for the purposes of this Chapter as if the relevant receipt had been a receipt of an amount of value equal to the aggregate amount.

For this purpose a receipt does not fall within paragraph (b) above if it has previously been aggregated under this subsection.”.

- (5) In subsection (1C) of that section for the words from “References” to “include references” substitute “Any reference in subsection (1), (1BA) or (1BC) above to the receipt of value (however expressed) from a company includes a reference”.
- (6) In subsections (4)(a) and (5) of that section for “receivable” substitute “received”.

16 After section 300 insert—

**“300A Receipt of replacement value**

(1) Where—

- (a) any relief attributable to any eligible shares comprised in an issue of shares subscribed for by an individual (“the individual”) would, in the absence of this section, be reduced or withdrawn under section 300 by reason of a receipt of value within subsection (2) or (5) of that section (“the original value”),

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- (b) the original supplier receives value (“the replacement value”) from the original recipient by virtue of a qualifying receipt, and
- (c) the amount of the replacement value is not less than the amount of the original value,

the receipt of the original value shall be disregarded for the purposes of section 300.

This is subject to subsections (7) and (8) below.

- (2) For the purposes of this section—
  - “the original recipient” means the person who receives the original value, and
  - “the original supplier” means the person from whom that value was received.
- (3) Where the amount of the original value is, by virtue of subsection (1BA) of section 300, treated as reduced for the purposes of that section as it applies in relation to the eligible shares in question, the reference in subsection (1) (c) above to the amount of the original value shall be read as a reference to the amount of that value disregarding the reduction.
- (4) A receipt of the replacement value is a qualifying receipt for the purposes of subsection (1) above if it arises—
  - (a) by reason of the original recipient doing one or more of the following—
    - (i) making a payment to the original supplier, other than a payment which falls within paragraph (c) below or to which subsection (5) below applies;
    - (ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset;
    - (iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset;
  - (b) where the receipt of the original value was within section 300(2) (d), by reason of an event the effect of which is to reverse the event which constituted the receipt of the original value; or
  - (c) where the receipt of the original value was within section 300(5), by reason of the original recipient repurchasing the share capital or securities in question, or (as the case may be) reacquiring the right in question, for a consideration the amount or value of which is not less than the amount of the original value.
- (5) This subsection applies to—
  - (a) any payment for any goods, services or facilities, provided (whether in the course of a trade or otherwise) by—
    - (i) the original supplier, or
    - (ii) any other person who, at any time in the period of restriction, is an associate of, or connected with, that supplier (whether or not he is such an associate, or so connected, at the material time),

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- which is reasonable in relation to the market value of those goods, services or facilities;
- (b) any payment of any interest which represents no more than a reasonable commercial return on money lent to—
    - (i) the original recipient, or
    - (ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time);
  - (c) any payment for the acquisition of an asset which does not exceed its market value;
  - (d) any payment, as rent for any property occupied by—
    - (i) the original recipient, or
    - (ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time),
 of an amount not exceeding a reasonable and commercial rent for the property;
  - (e) any payment in discharge of an ordinary trade debt; and
  - (f) any payment for shares in or securities of any company in circumstances that do not fall within subsection (4)(a)(ii) above.
- (6) For the purposes of this section, the amount of the replacement value is—
- (a) in a case within paragraph (a) of subsection (4) above, the aggregate of—
    - (i) the amount of any payment within sub-paragraph (i) of that paragraph, and
    - (ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it,
  - (b) in a case within subsection (4)(b) above, the same as the amount of the original value, and
  - (c) in a case within subsection (4)(c) above, the amount or value of the consideration received by the original supplier,
- and section 300(4) and (5) shall apply for the purposes of determining the amount of the original value.
- (7) The receipt of the replacement value by the original supplier shall be disregarded for the purposes of this section, as it applies in relation to the eligible shares, to the extent to which that receipt has previously been set (under this section) against any receipts of value which are, in consequence, disregarded for the purposes of section 300 as that section applies in relation to those shares or any other shares subscribed for by the individual.
- (8) The receipt of the replacement value by the original supplier (“the event”) shall be disregarded for the purposes of this section if—
- (a) the event occurs before the start of the period of restriction, or
  - (b) in a case where the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or

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- (c) where an appeal has been brought by the individual against an assessment to withdraw or reduce any relief attributable to the eligible shares by reason of the receipt of the original value, the event occurs more than 60 days after the amount of relief which falls to be withdrawn has been finally determined.

But nothing in this section requires the replacement value to be received after the original value.

(9) Subsection (10) below applies where—

- (a) the receipt of the replacement value by the original supplier is a qualifying receipt (for the purposes of subsection (1) above) in consequence of which any receipts of value are disregarded for the purposes of section 300 as that section applies in relation to the shares in question or any other shares subscribed for by the individual in question, and
- (b) the event which gives rise to the receipt is (or includes) a subscription for shares by—
  - (i) the individual, or
  - (ii) any person who, at any time in the period of restriction, is an associate of his, whether or not he is such an associate at the material time.

(10) Where this subsection applies, the person who subscribes for the shares as mentioned in subsection (9)(b) above shall not—

- (a) be eligible for any relief under this Chapter in relation to those shares or any other shares in the same issue, or
- (b) by virtue of his subscription for those shares or any other shares in the same issue, be treated as making a qualifying investment for the purposes of Schedule 5B to the 1992 Act (enterprise investment scheme: reinvestment).

(11) In this section—

- (a) any reference to a payment to a person (however expressed) includes a reference to a payment made to him indirectly or to his order or for his benefit, and
- (b) references to “the period of restriction” are to the period of restriction relating to the shares mentioned in subsection (1)(a) above.”.

17 In section 301 (provisions supplementary to section 300), in subsections (4A) and (5) for “section 300” substitute “sections 300 and 300A”.

18 After that section insert—

**“301A Receipts of insignificant value: supplementary provision**

- (1) In this section and section 300 references to a receipt of insignificant value (however expressed) are references to a receipt of an amount of insignificant value.

This is subject to subsection (3) below.

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- (2) For the purposes of this section and section 300 “an amount of insignificant value” means an amount of value which—
- (a) does not exceed £1,000, or
  - (b) if it exceeds that amount, is insignificant in relation to the amount subscribed by the individual in question for the eligible shares in question.
- (3) For the purposes of section 300, if, at any time in the period—
- (a) beginning one year before the eligible shares in question are issued, and
  - (b) expiring at the end of the issue date,
- arrangements are in existence which provide for the individual in question to receive or to be entitled to receive, at any time in the period of restriction relating to those shares, any value from the company that issued those shares, no amount of value received by the individual shall be treated as a receipt of insignificant value.
- (4) For the purposes of this section—
- (a) references to the individual include references to any person who, at any time in the period of restriction relating to the shares in question, is an associate of his (whether or not he is such an associate at the material time), and
  - (b) the reference in subsection (3) above to the company includes a reference to any person who, at any time in the period of restriction relating to the shares in question, is connected with the company (whether or not that person is so connected at the material time).
- (5) For the purposes of this section, an individual who acquires any eligible shares on such a transfer as is mentioned in section 304 shall be treated as if he subscribed for those shares.”.

*Repayment of share capital*

- 19 (1) In section 303 (repayment of share capital), in subsection (1) for “designated period” substitute “period of restriction”.
- (2) In subsection (1AA) of that section for “section 303A” substitute “sections 303AA and 303A”.
- (3) In subsection (1B) of that section (receipts of value which do not result in the withdrawal or reduction of income tax relief)—
- (a) in paragraph (c) after “relief” insert “attributable to shares held by that person”, and
  - (b) after paragraph (c) insert—
- “or it would have the effect mentioned in paragraph (a), (b) or (c) above were it not a receipt of insignificant value for the purposes of section 300 above, paragraph 13 of Schedule 5B to the 1992 Act or paragraph 47 of the Finance Act 2000, as the case may be”.
- (4) In subsection (1C) of that section, in paragraph (a) for “receivable” substitute “received”.



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- (5) In subsection (2A) of that section, for paragraph (b) substitute—
- “(b) if the shares were issued on or after 6th April 2000 but before 7th March 2001, the period beginning two years before the issue of the shares and ending immediately before the termination date relating to those shares,
  - (c) in any other case, the period of restriction for the issue.”.
- (6) Omit subsections (3) to (7) of that section (determination of whether a person is connected with the issuing company in case where member of company receives value from it).
- (7) In subsection (9A) of that section after “this section” insert “and section 303AA”.

20 After section 303 insert—

**“303AA Insignificant repayments disregarded for purposes of s.303(1)**

- (1) Any repayment shall be disregarded for the purposes of section 303(1) (repayments etc. which cause withdrawal or reduction of relief) if whichever is the greater of—
- (a) the market value of the shares to which it relates (“the target shares”) immediately before the event occurs, and
  - (b) the amount received by the member in question,
- is insignificant in relation to the market value of the remaining issued share capital of the company in question (or, as the case may be, subsidiary in question) immediately after the event occurs.

This is subject to subsection (4) below.

- (2) For the purposes of this section “repayment” means a repayment, redemption, repurchase or payment mentioned in section 303(1) (repayments etc. which cause withdrawal or reduction of relief).
- (3) For the purposes of subsection (1) above it shall be assumed that the target shares are cancelled at the time the repayment is made.
- (4) Where an individual subscribes for eligible shares in a company, subsection (1) above does not apply to prevent section 303(1) having effect in relation to those shares if, at a relevant time, arrangements are in existence that provide—
- (a) for a repayment by the company or any subsidiary of the company (whether or not it is such a subsidiary at the time the arrangements are made), or
  - (b) for anyone to be entitled to such a repayment,
- at any time in the period of restriction relating to those shares.
- (5) For the purposes of subsection (4) above “a relevant time” means any time in the period—
- (a) beginning one year before the eligible shares were issued, and
  - (b) expiring at the end of the issue date.”.

21 In section 303A (restriction on withdrawal or reduction of relief under section 303)—

- (a) for subsection (2) substitute—

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- “(2) For the purposes of this section “repayment” has the meaning given in section 303AA(2) above.”,
- (b) omit subsection (8) (repayments treated, for the purposes of the corporate venturing scheme, as causing insignificant changes to share capital to be disregarded), and
  - (c) in subsection (9)(a) for “that Schedule” substitute “Schedule 15 to the Finance Act 2000 (corporate venturing scheme)”.

### *Claims*

- 22 (1) In section 306(1) (timing of claim for relief), for paragraph (a) substitute—
- “(a) not earlier than the time the requirement in section 289A(6) is first satisfied; and”.
- (2) The amendment made by this paragraph has effect in relation to shares issued on or after 6th April 2001.

### *Information*

- 23 (1) In section 310 (information), in subsection (1) (claimant required to give notice of events by reason of which relief falls to be withdrawn or reduced), after “300,” insert “or would fall to be withdrawn under section 300 were it not for the application of section 300A.”.
- (2) In subsection (2) of that section (company etc. required to give notice of events by reason of which relief falls to be withdrawn or reduced), after “303” insert “, or would fall to be withdrawn under section 300 were it not for the application of section 300A.”.
- (3) After that subsection insert—
- “(2A) Where—
    - (a) a person is required to give notice under subsection (1) or (2) above of an event by reason of which any relief in respect of any shares in a company—
      - (i) falls to be withdrawn under section 300, or
      - (ii) would fall to be so withdrawn were it not for the application of section 300A, and
    - (b) that person has knowledge of the replacement value received (or expected to be received) from the original recipient by the original supplier by reason of a qualifying receipt,
 the notice shall include particulars of that receipt of the replacement value (or expected receipt).
- In this subsection “the replacement value”, “the original recipient”, “the original supplier” and “qualifying receipt” shall be construed in accordance with section 300A.”.
- (4) In subsection (4) of that section, after “believe” insert “(a)” and for “the inspector may” (where it first occurs) substitute—

“, or

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- (b) that a person has given or received value (within the meaning of section 300(2) or (5)) which, but for the fact that the amount given or received was an amount of insignificant value (within the meaning of section 301A(2)), would have triggered a requirement to give a notice under subsection (1) or (2) above, or
- (c) that a person has made or received any repayment (within the meaning of section 303AA(2)) which, but for the fact that it falls to be disregarded for the purposes of section 303(1) by virtue of section 303AA(1), would have triggered a requirement to give a notice under subsection (2) above,

the inspector may”.

- (5) The amendments made by this paragraph have effect in relation to events occurring on or after 7th March 2001.

#### *Interpretation*

- 24 In section 312 (interpretation), in subsection (1), after the definition of “ordinary shares” insert—
- ““the period of restriction”, in relation to any eligible shares issued by a company, means the period—
- (a) beginning one year before the shares are issued, and
  - (b) ending immediately before the termination date relating to the shares;”.