

*These notes refer to the Income Tax Act 2007 (c.3)
which received Royal Assent on 20 March 2007*

INCOME TAX ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Loss relief

Overview

Chapter 6: Losses on disposal of shares

Overview

Section 137: The trading requirement

450. This section is the first of ten new sections relating to the requirements for a company to be a qualifying trading company. These sections replace the provisions of section 576(4A) and (4B) of ICTA which apply section 293 and certain associated provisions of Chapter 3 of Part 7 of that Act, with modifications and omissions.
451. All these sections correspond to sections in Part 5 of this Act (Enterprise investment scheme). So far as possible cross-references to sections of Part 5 have been minimised. Cross-references have, however, been retained where the material referred to is lengthy, for example the definition of “excluded activities” in sections 192 to 199.
452. This section corresponds to section 181 with modifications. Section 181 is based on section 293(2) and (3A) to (3F) of ICTA. Section 134(2) and (3) provide that this requirement must be met over a continuous period, which is the effect of the modification of section 293(2) of ICTA made by section 576(4A)(d) of that Act.
453. *Subsection (2)* corresponds to section 181(3) and *subsection (6)* corresponds to section 181(7). For the reason for the introduction of subsections (3) and (7) of section 181, see *Change 42* in Annex 1 and the commentary on section 181.
454. *Subsection (5)* corresponds to section 181(6), including the change made in section 181(6)(d) by *Change 41* in Annex 1.
455. In the definition of “incidental purposes” in *subsection (7)* the words “capable of”, which appear in the definition in section 293(2) of ICTA on which it is based, have been omitted. This mirrors the definition of “incidental purposes” in section 181(8), which is also based on the definition in section 293(2) of ICTA. See the commentary on section 181.
456. The definition of “non-qualifying activities” in *subsection (7)* includes the change affecting the definition of that term for the purposes of section 181(8) made by *Change 43* in Annex 1.