



Income Tax Act 2007

2007 CHAPTER 3

PART 13

TAX AVOIDANCE

[^{F1}CHAPTER 5F

INCOME-BASED CARRIED INTEREST

[^{F1}Average holding period: aggregation of acquisitions and disposals

Textual Amendments

F1 Pt. 13 Ch. 5F inserted (with effect in accordance with s. 37(4) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 37\(2\)](#)

809FZJ Significant interests

- (1) Where an investment scheme has a controlling interest in a trading company or the holding company of a trading group—
 - (a) any investment made for the purposes of the scheme in that company after the time when the controlling interest was acquired is to be regarded as having been made at that time, and
 - (b) any disposal for the purposes of the scheme of an investment in the company after the time the controlling interest was acquired is to be regarded as not being made until a relevant disposal is made.
- (2) In subsection (1)(b) “relevant disposal”, in relation to a company, means a disposal which (apart from subsection (1)) has the effect that the investment scheme ceases to have a 40% interest in the company.

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- (3) For the purposes of this section, in determining whether an investment scheme has a controlling interest or a 40% interest in a company, any share capital of the company which is held for the purposes of an associated investment scheme is to be regarded as held for the purposes of the investment scheme.

809FZK Venture capital funds

- (1) Where a venture capital fund has a relevant interest in a trading company or the holding company of a trading group—
- (a) any venture capital investment made for the purposes of the scheme in the company after the time the relevant interest was acquired (and before a relevant disposal) is to be regarded as having been made at the time the relevant interest was acquired, and
 - (b) any disposal for the purposes of the scheme of a venture capital investment in the company after that time is to be regarded as not being made until—
 - (i) a relevant disposal is made, or
 - (ii) the scheme director condition ceases to be met.
- (2) For the purposes of subsection (1) a venture capital fund has a relevant interest in a company if—
- (a) by virtue of its venture capital investments the fund has at least a 5% interest in the company, or
 - (b) venture capital investments held for the purposes of the scheme in the company have a value of more than £1 million.
- (3) For the purposes of subsection (1) “relevant disposal” means a disposal which (apart from subsection (1)) has the effect that the venture capital fund has disposed of more than 80% of the greatest amount invested at any one time in the company for the purposes of the fund.
- (4) In this Chapter, “venture capital fund” means an investment scheme in relation to which the condition in subsection (5) is met.
- (5) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—
- (a) at least two-thirds of the total value invested for the purposes of the scheme will be invested in venture capital investments, and
 - (b) at least two-thirds of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more.
- (6) In determining whether subsection (5)(b) is met in relation to an investment scheme, apply the rule in subsection (1) to the scheme.
- (7) In this section, “venture capital investment”, in relation to an investment scheme, means an investment in a trading company or the holding company of a trading group where—
- (a) at the time the investment is made the company is unlisted and is likely to remain so,
 - (b) at least 75% of the total value of the investment is invested in—
 - (i) newly issued shares or
 - (ii) newly issued securities convertible into shares,

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- (c) the investment is used in a trade carried on by the trading company or the trading group—
 - (i) to support its growth, or
 - (ii) for the development of new products or services,and is not used directly or indirectly to acquire shares in the company which are not newly issued,
 - (d) if the investment is the first investment made in the company for the purposes of the scheme, the trading company or group has not carried on that trade for more than 7 years, and
 - (e) the scheme director condition is met.
- (8) In this Chapter, the scheme director condition, in relation to an investment scheme and a company, is that—
- (a) the scheme (or the scheme and one or more investment schemes acting together) are entitled to appoint a director (“the scheme director”) of—
 - (i) the company, or
 - (ii) a company which controls the company, and
 - (b) the scheme director is entitled to exercise rights within subsection (9).
- (9) Those rights are rights which—
- (a) are rights conferred under contractual arrangements—
 - (i) to which some or all of the investors in the company are parties, and
 - (ii) which it would be reasonable to suppose would not otherwise be capable of being exercised by the scheme director,
 - (b) relate to the conduct of the business and affairs of the company, and
 - (c) are at least equivalent to the rights which it is reasonable to suppose a prudent investor would have obtained on making an investment in the company at arm's length of the same size and nature as that held in the company for the purposes of the investment scheme.
- (10) In determining whether the condition in subsection (2)(a) or (b) is met in relation to a venture capital fund, any share capital of a company which is held for the purposes of an associated investment scheme is to be regarded as held for the purposes of the venture capital fund.

809FZL Significant equity stake funds

- (1) Where a significant equity stake fund has a significant equity stake investment in a trading company or the holding company of a trading group—
- (a) any investment made for the purposes of the fund in that company made after the time the significant equity stake investment was acquired is to be regarded as having been made at that time, and
 - (b) any disposal for the purposes of the fund of an investment in the company after that time is to be regarded as not being made until—
 - (i) a relevant disposal is made, or
 - (ii) the scheme director condition ceases to be met.
- (2) In subsection (1)(b) “relevant disposal” means a disposal which (apart from subsection (1)) has the effect that the significant equity stake fund ceases to have a 15% interest in the company.

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- (3) In this Chapter, “significant equity stake fund” means an investment scheme—
 - (a) which is not a venture capital fund, and
 - (b) in relation to which the condition in subsection (4) is met.
- (4) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—
 - (a) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are significant equity stake investments, and
 - (b) more than 50% of that value will be invested in investments which are held for 40 months or more.
- (5) In determining whether subsection (4)(b) is met in relation to an investment scheme, apply the rule in subsection (1) to the scheme.
- (6) In this section, “significant equity stake investment”, in relation to an investment scheme, means an investment in a trading company or the holding company of a trading group where—
 - (a) at the time the investment is made, the company is unlisted and likely to remain so,
 - (b) by virtue of the investment (on its own or with other investments) the scheme has a 20% interest in the company, and
 - (c) the scheme director condition is met.
- (7) For the purposes of this section, in determining whether a significant equity stake fund has an interest of a particular percentage in a company, any share capital of the company which is held for the purposes of an associated investment scheme is to be regarded as held for the purposes of the significant equity stake fund.

809FZM Controlling equity stake funds

- (1) Where a controlling equity stake fund has a 25% interest in a trading company or the holding company of a trading group—
 - (a) any investment made for the purposes of the controlling equity stake fund in the company after the time the 25% interest was acquired is to be regarded as having been made at that time, and
 - (b) any disposal for the purposes of the controlling equity stake fund of an investment in the company after that time is to be regarded as not being made until a relevant disposal is made.
- (2) In subsection (1)(b), “relevant disposal”, in relation to a company, means a disposal which (apart from subsection (1)) has the effect that the controlling equity stake fund ceases to have a 25% interest in the company.
- (3) In this Chapter, “controlling equity stake fund” means an investment scheme—
 - (a) which is not a venture capital fund or significant equity stake fund, and
 - (b) in relation to which the condition in subsection (4) is met.
- (4) The condition is that when the scheme starts to invest it is reasonable to suppose that, over the investing life of the scheme—
 - (a) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are controlling interests in trading companies or holding companies of trading groups, and

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- (b) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more.
- (5) In determining whether subsection (4)(b) is met in relation to an investment scheme, apply the rule in subsection (1) to the scheme.
- (6) For the purposes of this section, in determining whether a controlling equity stake fund has a controlling interest or an interest of a particular percentage in a company, any share capital of the company which is held for the purposes of an associated investment scheme is to be regarded as held for the purposes of the controlling equity stake fund.

809FZN Real estate funds

- (1) Where a real estate fund has a major interest in any land—
- (a) any investment made for the purposes of the fund in that land after the time the major interest was acquired is to be regarded as having been made at that time, and
 - (b) any disposal for the purposes of the fund of an investment in the land after that time is to be regarded as not being made until a relevant disposal is made.
- (2) In subsection (1)(b) “relevant disposal” means a disposal which (apart from subsection (1)) has the effect that the real estate fund has disposed of more than 50% of the greatest amount invested at any one time in the land for the purposes of the real estate fund.
- (3) Where a real estate fund has a major interest in any land (“the original land”) and subsequently acquires a major interest in any adjacent land—
- (a) the acquisition is an investment in the original land for the purposes of subsection (1)(a), and
 - (b) after the acquisition, the adjacent land is to be regarded as part of the original land for the purposes of subsections (1) and (2).
- (4) In this Chapter, “real estate fund” means an investment scheme—
- (a) which is not a venture capital fund, significant equity stake fund or controlling equity stake fund, and
 - (b) in relation to which the condition in subsection (5) is met.
- (5) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—
- (a) more than 50% of the total value invested for the purposes of the scheme will be invested in land, and
 - (b) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more.
- (6) In determining whether subsection (5)(b) is met in relation to an investment scheme, apply the rule in subsection (1) to the scheme.

809FZO Funds of funds

- (1) Section 809FZC(5) (disregard of intermediate holdings and holding structures) does not apply to an investment made for the purposes of a fund of funds in a collective investment scheme (and, accordingly, such an investment is regarded as an investment in the collective investment scheme itself).

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- (2) Subsection (1) does not apply in relation to a fund of funds in relation to a collective investment scheme if it is reasonable to suppose that the main purpose or one of the main purposes of the making of any investment in any collective investment scheme for the purposes of the fund of funds is to reduce the proportion of carried interest arising to any person which is income-based carried interest.
- (3) Where by virtue of subsection (1) a fund of funds has a significant investment in a collective investment scheme (“the underlying scheme”)—
- (a) any qualifying investment made for the purposes of the fund in the underlying scheme after the time the significant investment was acquired is to be regarded as having been made at that time, and
 - (b) any disposal for the purposes of the fund of a qualifying investment in the underlying scheme after that time is to be regarded as not being made until a relevant disposal is made.
- (4) In subsection (3)(b) “relevant disposal”, in relation to an underlying scheme, means a disposal which (apart from subsection (3)) has the effect that—
- (a) the fund of funds has (by virtue of disposals of its interest in the underlying scheme) disposed of at least 50% of the greatest amount invested for its purposes at any one time in the underlying scheme, or
 - (b) the fund of fund's investment in the underlying scheme is worth less than whichever is the greater of—
 - (i) £1 million, or
 - (ii) 5% of the total value of the investments made before the disposal for the purposes of the fund of funds in the underlying scheme.
- (5) In this Chapter, “fund of funds” means an investment scheme in relation to which the condition in subsection (6) is met.
- (6) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—
- (a) substantially all of the total value invested for the purposes of the scheme will be invested in collective investment schemes of which the scheme holds less than 50% by value,
 - (b) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more, and
 - (c) more than 75% of the total value invested in the scheme will be invested by external investors.
- (7) In determining whether subsection (6)(b) is met in relation to an investment scheme, apply the rule in subsection (3) to the scheme.
- (8) In this section, “significant investment”, in relation to a collective investment scheme, means—
- (a) an investment of a least £1 million in the scheme, or
 - (b) an investment of at least 5% of the total amounts raised or to be raised from external investors in the scheme.
- (9) In this section, “qualifying investment” means an investment made for the purposes of an investment scheme in a collective investment scheme (“the underlying scheme”) where—

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- (a) the investment is held on the same terms as other investments made by external investors in the underlying scheme,
- (b) the fund of funds, together with any connected funds, does not hold more than 30% by value of the underlying scheme,
- (c) the underlying scheme has not made an investment in the fund of funds,
- (d) no person providing investment management services to the underlying scheme provides investment management services to the fund of funds, and
- (e) it is reasonable to suppose that the investment in the underlying scheme is not part of arrangements the main purpose or one of the main purposes of which is to reward any person involved in providing investment management services to the underlying scheme or a scheme connected with that underlying scheme.

809FZP Secondary funds

- (1) Section 809FZC(5) (disregard of intermediate holdings and holding structures) does not apply to investments acquired for the purposes of a secondary fund in a collective investment scheme (and, accordingly, such an investment is regarded as an investment in the collective investment scheme itself).
- (2) Subsection (1) does not apply in relation to a secondary fund in relation to a collective investment scheme if it is reasonable to suppose that the main purpose or one of the main purposes of the making of any investment in any collective investment scheme for the purposes of the secondary fund is to reduce the proportion of carried interest arising to any person which is income-based carried interest.
- (3) Where by virtue of subsection (1) a secondary fund has a significant investment in a collective investment scheme (“the underlying scheme”)—
 - (a) any qualifying investment acquired for the purposes of the fund in the underlying scheme after the time when the significant investment is acquired is to be regarded as having been made at that time, and
 - (b) any disposal for the purposes of the fund of a qualifying investment in the underlying scheme after that time is to be regarded as not being made until a relevant disposal is made.
- (4) In subsection (3)(b) “relevant disposal” means a disposal which (apart from subsection (3)) has the effect that—
 - (a) the secondary fund has (by virtue of disposals of its interest in the underlying scheme) disposed of at least 50% of the greatest amount invested for its purposes at any one time in the underlying scheme, or
 - (b) the secondary fund's investment in the underlying scheme is worth less than whichever is the greater of—
 - (i) £1 million, or
 - (ii) 5% of the total value of the investments held immediately before the disposal for the purposes of the secondary fund in the underlying scheme.
- (5) In this Chapter, “secondary fund” means an investment scheme in relation to which the condition in subsection (6) is met.
- (6) The condition is that when the scheme starts to invest it is reasonable to suppose that over the investing life of the scheme—

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- (a) substantially all of the total value invested for the purposes of the scheme will be in the acquisition of investments in, or the acquisition of portfolios of investments from, unconnected collective investment schemes,
 - (b) more than 50% of the total value invested for the purposes of the scheme will be invested in investments which are held for 40 months or more, and
 - (c) more than 75% of the total amount invested in the scheme will be invested by external investors.
- (7) In determining whether subsection (6)(b) is met in relation to an investment scheme, apply the rule in subsection (3) to the scheme.
- (8) In this section, “significant interest”, in relation to a collective investment scheme, means—
- (a) an investment of at least £1 million in the scheme, or
 - (b) an investment of at least 5% of the total amounts raised or to be raised from external investors in the scheme.
- (9) In this section, “qualifying investment” means an investment in a collective investment scheme (“the underlying scheme”) acquired for the purposes of a secondary fund where—
- (a) the investment acquired was originally made on the same terms as investments in the underlying scheme made by external investors,
 - (b) the terms on which the investment was acquired or investments made in the underlying scheme were made by external investors have not significantly changed since the investment was acquired,
 - (c) the secondary fund, together with any connected funds, does not hold more than 30% by value of the underlying scheme,
 - (d) no person providing investment management services to the underlying scheme provides investment management services to the secondary fund, and
 - (e) it is reasonable to suppose that the investment in the underlying scheme is not part of arrangements the main purpose or one of the main purposes of which is to reward any person involved in providing investment management services to the underlying scheme or a scheme connected with that underlying scheme.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)