



Income Tax Act 2007

2007 CHAPTER 3

[^{F1}PART 5B

TAX RELIEF FOR SOCIAL INVESTMENTS

[^{F1}CHAPTER 4

ELIGIBILITY: CONDITIONS RELATING TO THE SOCIAL ENTERPRISE

Textual Amendments

F1 Pt. 5B inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 11 para. 1](#)

Conditions relating to the social enterprise^[F2: general]

Textual Amendments

F2 Word in s. 257M cross-heading inserted (with effect in accordance with Sch. 1 para. 14(1)(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 6\(1\)](#)

257M The continuing to be a social enterprise requirement

The social enterprise must be a social enterprise throughout the shorter applicable period.

^{F3}**257MA The amount raised from investments potentially eligible for relief**

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Textual Amendments

- F3** S. 257MA omitted (with effect in accordance with Sch. 1 para. 14(1)(2) of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 6\(2\)](#)

F4 ~~257MB~~ **Power to amend limits on amounts raised**

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Textual Amendments

- F4** S. 257MB omitted (with effect in accordance with Sch. 1 para. 14(1)(2) of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 6\(2\)](#)

257MC The gross assets requirement

- (1) If the social enterprise is a single company, the value of its assets—
 - (a) must not exceed £15 million immediately before the investment is made, and
 - (b) must not exceed £16 million immediately after the investment is made.
- (2) If the social enterprise is a parent company, the value of the group assets—
 - (a) must not exceed £15 million immediately before the investment is made, and
 - (b) must not exceed £16 million immediately after the investment is made.
- (3) For the purposes of subsection (2), the value of the group assets is the sum of the values of the gross assets of each of the members of the group, ignoring any assets that consist in rights against, or shares in or securities of, another member of the group.

257MD The unquoted status requirement

- (1) At the beginning of the shorter applicable period—
 - (a) the social enterprise must not be a quoted company,
 - (b) there must be no arrangements in existence for the social enterprise to become a quoted company, and
 - (c) there must be no arrangements in existence for the social enterprise to become a subsidiary of a company (“the new company”) by virtue of an exchange of shares, or shares and securities, if arrangements have been made with a view to the new company becoming a quoted company.
- (2) For the purpose of this section, a company is a “quoted company” if any shares, stocks, debentures or other securities of the company are—
 - (a) listed on a recognised stock exchange,
 - (b) listed on a designated exchange in a country outside the United Kingdom, or
 - (c) dealt in outside the United Kingdom by such means as may be designated.
- (3) In subsection (2)(b) and (c) “designated” means designated by an order made by the Commissioners for Her Majesty’s Revenue and Customs for the purposes of that provision.

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- (4) An order made for the purposes of subsection (2)(b) may designate an exchange by name, or by reference to any class or description of exchanges, including a class or description framed by reference to any authority or approval given in a country outside the United Kingdom.
- (5) The arrangements referred to in subsection (1)(b), and the second arrangements referred to in subsection (1)(c), do not include arrangements in consequence of which any shares, stocks, debentures or other securities of the social enterprise or the new company (as the case may be) are at any subsequent time—
 - (a) listed on a stock exchange that is a recognised stock exchange by virtue of an order under section 1005(1)(b), or
 - (b) listed on an exchange, or dealt in by any means, designated by an order made for the purposes of subsection (2)(b) or (c),if the order was made after the beginning of the shorter applicable period.

257ME The control and independence requirements

- (1) The social enterprise must not at any time in the shorter applicable period control (whether on its own or together with any person connected with it) any company which is not a qualifying subsidiary of the social enterprise.
- (2) The social enterprise must not at any time in the shorter applicable period—
 - (a) be a 51% subsidiary of a company, or
 - (b) be under the control of a company, or under the control of a company and a person connected with that company, without being a 51% subsidiary of the company.
- (3) No arrangements must be in existence at any time in the shorter applicable period by virtue of which the social enterprise could fail to meet either or both of subsections (1) and (2) (whether during that period or otherwise).

257MF The qualifying subsidiaries requirement

Any subsidiary that the social enterprise has at any time in the shorter applicable period must be a qualifying subsidiary of the social enterprise.

257MG The property-managing subsidiaries requirement

- (1) Any property-managing subsidiary that the social enterprise has at any time in the shorter applicable period must be a 90% social subsidiary of the social enterprise.
- (2) In subsection (1) “property-managing subsidiary” means a subsidiary of the social enterprise whose business consists wholly or mainly in the holding or managing of land or any property deriving its value (directly or indirectly) from land.

257MH The number of employees requirement

- (1) If the social enterprise is a single company, the full-time equivalent employee number for it must be less than [F⁵250] when the investment is made.
- (2) If the social enterprise is a parent company, the sum of—
 - (a) the full-time equivalent employee number for it, and

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- (b) the full-time equivalent employee number for each of its qualifying subsidiaries,
 must be less than [^{F5}250] when the investment is made.
- (3) The full-time equivalent employee number for a company is calculated by taking the number of full-time employees of the company and adding, for each employee of the company who is not a full-time employee, such fraction as is just and reasonable.
- (4) In this section “employee”—
- (a) includes a director, but
 - (b) does not include—
 - (i) an employee on maternity [^{F6}, paternity or parental bereavement] leave, or
 - (ii) a student on vocational training.

Textual Amendments

- F5** Word in s. 257MH(1)(2) substituted (with effect in accordance with Sch. 1 para. 14(1)(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 7](#)
- F6** Words in s. 257MH(4)(b)(i) substituted (18.1.2020) by [Parental Bereavement \(Leave and Pay\) Act 2018 \(c. 24\)](#), s. 2(2), [Sch. para. 53](#); S.I. 2020/45, reg. 2

257MI The no partnership requirement

- (1) The requirements in this section apply during the shorter applicable period.
- (2) The social enterprise must not be a member of any partnership.
- (3) Each 90% social subsidiary of the social enterprise must not be a member of a partnership.

^I_{F7} 257MIA The financial health requirement

- (1) The social enterprise must meet the financial health requirement at the beginning of the shorter applicable period.
- (2) The financial health requirement is that the social enterprise is not in difficulty.
- (3) The social enterprise is “in difficulty” if it is reasonable to assume that it would be regarded as a firm in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02).]

Textual Amendments

- F7** S. 257MIA inserted (with effect in accordance with Sch. 1 para. 14(1)(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 8](#)

257MJ The trading requirement

- (1) The social enterprise must meet the trading requirement throughout the shorter applicable period, but this does not apply if the social enterprise is an accredited social impact contractor.

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- (2) The trading requirement is that—
- (a) the social enterprise is a charity,
 - (b) the social enterprise is a single company that is not a charity, and its business—
 - (i) does not, if things done for incidental purposes are ignored, consist to any extent in the carrying-on of non-trade activities, and
 - (ii) does not consist wholly, or as to a substantial part, in the carrying-on of excluded activities, or
 - (c) the social enterprise is a parent company that is not a charity, and the business of the group does not consist wholly, or as to a substantial part, in the carrying-on of non-qualifying activities.
- (3) If the social enterprise intends that one or more companies should become its qualifying subsidiaries with a view to their carrying on one or more qualifying trades—
- (a) the social enterprise is treated as a parent company for the purposes of subsection (2)(b) and (c), and
 - (b) the reference in subsection (2)(c) to the group includes the social enterprise and any existing or future company that will be its qualifying subsidiary after the intention in question is carried out,
- but this subsection does not apply at any time after the abandonment of that intention.
- (4) For the purposes of subsection (2)(c) “the business of the group” means what would be the business of the group if the activities of the group companies taken together were regarded as one business.
- (5) For the purposes of determining the business of a group, activities of a group company are ignored so far as they are activities carried on by a mainly trading subsidiary otherwise than for its main purpose.
- (6) For the purposes of determining the business of a group, activities of a group company are ignored so far as they consist in—
- (a) the holding of shares in or securities of a qualifying subsidiary of the parent company,
 - (b) the making of loans to another group company, or
 - (c) the holding and managing of property used by a group company for the purpose of one or more qualifying trades carried on by a group company.
- (7) In this section—
- “incidental purposes” means purposes having no significant effect (other than in relation to incidental matters) on the extent of the activities of the body in question,
- “mainly trading subsidiary” means a qualifying subsidiary which, apart from incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, and any reference to the main purpose of such a subsidiary is to be read accordingly,
- “non-qualifying activities” means—
- (a) excluded activities, and
 - (b) activities, other than activities carried on by a charity, that are carried on otherwise than in the course of a trade, and
- “non-trade activities” means activities which are neither of the following—
- (a) activities carried on in the course of a trade, and
 - (b) activities carried on in the course of preparing to carry on a trade.

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257MK Ceasing to meet trading requirement: administration or receivership

- (1) The social enterprise is not regarded as ceasing to meet the trading requirement merely because of anything done in consequence of the social enterprise or any of its subsidiaries being in administration or receivership, but this is subject to subsections (2) and (3).
- (2) Subsection (1) applies only if—
 - (a) the entry into administration or receivership, and
 - (b) everything done as a result of the company concerned being in administration or receivership,
 is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.
- (3) The social enterprise ceases to meet the trading requirement if before the end of the shorter applicable period—
 - (a) a resolution is passed, or an order is made, for the winding-up of the social enterprise or any of its subsidiaries (or, in the case of a winding-up otherwise than under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), any other act is done for the like purpose), or
 - (b) the company or any of its subsidiaries is dissolved without winding-up,
 but this is subject to subsection (4).
- (4) Subsection (3) does not apply if the winding-up or dissolution is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

257ML The issue must be to raise money for chosen trade or preparing for it

- (1) The social enterprise must be a party to the making of the investment (so far as not in bonus shares) in order to raise money for the carrying-on, by the social enterprise or a 90% social subsidiary of the social enterprise, of—
 - (a) a qualifying trade which on the investment date is carried on by the social enterprise or a 90% social subsidiary of the social enterprise, or
 - (b) the activity of preparing to carry on (or preparing to carry on and then carrying on) a qualifying trade—
 - (i) which on the investment date is intended to be carried on by the social enterprise or a 90% social subsidiary of the social enterprise, and
 - (ii) which is begun to be carried by the social enterprise or such a subsidiary within 2 years after that date.
- (2) In this Chapter—
 - (a) the purpose within subsection (1) for which money is raised is referred to as “the funded purpose”,
 - (b) the qualifying trade mentioned in subsection (1)(a) or (b) is referred to as “the chosen trade”, and
 - (c) if the funded purpose is the carrying-on of the activity mentioned in subsection (1)(b), “relevant preparation work” means preparations that form the whole or part of the activity.

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- (3) In determining for the purposes of subsection (1)(b) when a qualifying trade is begun to be carried on by a 90% social subsidiary of the social enterprise, any carrying-on of the trade by it before it became such a subsidiary is ignored.
- (4) The reference in subsection (1)(b)(i) to a 90% social subsidiary of the social enterprise includes a reference to any existing or future body which will be such a subsidiary at any future time.
- (5) This section does not apply if the social enterprise is an accredited social impact contractor.

257MM Requirement to use money raised and to trade for minimum period

- (1) All of the money raised by the social enterprise from the making of the investment must, no later than the end of 28 months beginning with the investment date, be employed wholly for the funded purpose.
- (2) The chosen trade must have been carried on for a period of at least 4 months ending at or after the time the investment is made and, throughout that period, the trade—
 - (a) must have been carried on by the social enterprise or a 90% social subsidiary of the social enterprise, and
 - (b) must not have been carried on by any other person.
- (3) Employing money on the acquisition of shares or stock in a body does not of itself amount to employing the money for the funded purpose.
[Employing money on the repayment of a loan does not amount to employing the ^{F8}(3A) money for the funded purpose.]
- (4) Subsection (1) does not fail to be met merely because an amount of money which is not significant is employed for other purposes.
- (5) If—
 - (a) merely because of the social enterprise or any other company being wound up, or dissolved without winding-up, the qualifying trade is carried on as mentioned in subsection (2) for a period shorter than 4 months, and
 - (b) the winding-up or dissolution—
 - (i) is for genuine commercial reasons, and
 - (ii) is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax,subsection (2) has effect as if it referred to that shorter period.
- (6) If—
 - (a) merely because of anything done as a result of the social enterprise or any other company being in administration or receivership, the chosen trade is carried on as mentioned in subsection (2) for a period shorter than 4 months, and
 - (b) the entry into administration or receivership, and everything done as a result of the company concerned being in administration or receivership—
 - (i) is for genuine commercial reasons, and
 - (ii) is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax,

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subsection (2) has effect as if it referred to that shorter period.

- (7) If the social enterprise is an accredited social impact contractor, the preceding provisions of this section apply with the following modifications—
- (a) in subsection (1), for “28 months” substitute “ 24 months ”,
 - (b) in that subsection, for “the funded purpose” substitute “ the carrying out of the social impact contract concerned ”, and
 - (c) omit subsections (2), (3), [^{F9}(3A),] (5) and (6).

Textual Amendments

- F8** S. 257MM(3A) inserted (with effect in accordance with Sch. 1 para. 14(1)(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 9\(2\)](#)
- F9** Word in s. 257MM(7)(c) inserted (with effect in accordance with Sch. 1 para. 14(1)(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 9\(3\)](#)

257MN The social enterprise must carry on the chosen trade

- (1) There must not be a time in the shorter applicable period when—
 - (a) the chosen trade, or
 - (b) relevant preparation work,
 is carried on by a person who is neither the social enterprise nor a 90% social subsidiary of the social enterprise.
- (2) If relevant preparation work is carried out in the shorter applicable period by the social enterprise or a 90% social subsidiary of the social enterprise then, for the purposes of determining whether the requirement in subsection (1) is met, ignore any carrying-on of the chosen trade that takes place in that period before the trade begins to be carried on by a person who is the social enterprise or a 90% social subsidiary of the social enterprise.
- (3) The requirement in subsection (1) is not regarded as failing to be met if, merely because of any act or event within subsection (4), the chosen trade—
 - (a) ceases to be carried on in the shorter applicable period by the social enterprise or any 90% social subsidiary of the social enterprise, and
 - (b) it is subsequently carried on in that period by a person who is not any time in the longer applicable period connected with the social enterprise.
- (4) The acts and events within this subsection are—
 - (a) anything done as a consequence of the social enterprise or any other company being in administration or receivership, and
 - (b) the social enterprise or any other company being wound up, or dissolved without being wound up.
- (5) Subsection (4) applies only if—
 - (a) the entry into administration or receivership, and everything done as a consequence of the company concerned being in administration or receivership, or
 - (b) the winding-up or dissolution,
 is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

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- (6) This section does not apply if the social enterprise is an accredited social impact contractor.

F10 Limits on amounts that may be invested

Textual Amendments

- F10** Ss. 257MNA-257MNE and cross-heading inserted (with effect in accordance with Sch. 1 para. 14(1) (2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 6\(3\)](#)

257MNA Maximum amount where investment made in first 7 years

- (1) This section applies where—
- (a) the investment is made before the end of the period of 7 years beginning with the relevant first commercial sale, or
 - (b) the investment is made after that period but—
 - (i) a relevant investment was made in the social enterprise before the end of that period, and
 - (ii) some or all of the money raised by that relevant investment was employed for the purposes of (or of part of) the qualifying activity for which the money raised by the investment is employed.
- (2) Where this section applies, the total amount of relevant investments made in the social enterprise on or before the date when the investment is made must not exceed £1.5 million.
- (3) The reference in subsection (2) to relevant investments “made in the social enterprise” is to be read with section 257MNB.
- (4) In this section—
- “qualifying activity” means—
- (a) a qualifying trade within paragraph (a) of section 257ML(1) carried on by the social enterprise or a 90% social subsidiary of the social enterprise, or
 - (b) an activity within paragraph (b) of section 257ML(1) so carried on;
- “the relevant first commercial sale” has the meaning given by section 175A(6), reading—
- (a) references to the issuing company as references to the social enterprise,
 - (b) references to the issue date as references to the investment date, and
 - (c) references to money raised by the issue of the relevant shares as references to money raised by the investment;
- “relevant investment” has the meaning given by section 173A(3) (reading references in section 173A(3) to a company as including any social enterprise).
- (5) Section 173A(4) and (5) apply to determine for the purposes of this section when a relevant investment is made.
- (6) Where the social enterprise is an accredited social impact contractor—

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- (a) the reference in subsection (1)(a) to the relevant first commercial sale is to be read as a reference to the date on which the social enterprise first entered into a social impact contract;
 - (b) the reference in subsection (1)(b) to the qualifying activity mentioned there is to be read as a reference to the carrying out of the social impact contract for which the money raised by the investment is employed.
- (7) For provision about maximum amounts where this section does not apply, see section 257MNC.

257MNB Section 257MNA: supplementary

- (1) In section 257MNA(2) the reference to relevant investments “made in the social enterprise” includes—
- (a) relevant investments made in a company which, at the material date, is or has been a 51% subsidiary of the social enterprise,
 - (b) any other relevant investment made in a company to the extent that the money raised by that relevant investment has been employed for the purposes of a trade carried on by another company (“company X”) which, at the material date, is or has been a 51% subsidiary of the social enterprise, and
 - (c) any other relevant investment made in a company if—
 - (i) the money raised by that relevant investment has been employed for the purposes of a trade carried on by that company or another person, and
 - (ii) after that relevant investment was made, but on or before the material date, that trade became a transferred trade (see subsection (5)).
- (2) The investments within paragraph (a) of subsection (1)—
- (a) include investments made in a company mentioned in that paragraph before it became a 51% subsidiary of the social enterprise, but
 - (b) where a company mentioned in that paragraph is not a 51% subsidiary of the social enterprise at the material date, do not include any investments made in that company after it last ceased to be such a subsidiary.
- (3) For the purposes of subsection (1)(b), where company X is not a 51% subsidiary of the social enterprise at the material date, any money employed after company X last ceased to be such a subsidiary is to be ignored.
- (4) Where only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a transferred trade, only the corresponding proportion of that relevant investment is to be treated as falling within subsection (1)(c).
- (5) For the purposes of this section, if—
- (a) on or before the material date a trade is transferred—
 - (i) to the social enterprise,
 - (ii) to a company which, at the material date, is or has been a 51% subsidiary of the social enterprise, or
 - (iii) to a partnership of which the social enterprise, or a company within sub-paragraph (ii), is a member, and
 - (b) the trade or part of it was at any time before the transfer carried on by another person,

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the trade or part mentioned in paragraph (b) becomes a “ transferred trade ” when it is transferred as mentioned in paragraph (a).

- (6) The cases within subsection (5)(a)—
- (a) include the case where the trade is transferred to a company within subsection (5)(a)(ii), or a partnership of which such a company is a member, before the company became a 51% subsidiary of the social enterprise, but
 - (b) where a company within subsection (5)(a)(ii) is not a 51% subsidiary of the social enterprise at the material date, do not include the case where the trade is transferred to that company, or a partnership of which that company is a member, after that company last ceased to be such a subsidiary.
- (7) In this section—
- “the material date” means the date on which the investment is made;
 - “relevant investment” has the meaning given by section 173A(3) (reading references in section 173A(3) to a company as including any social enterprise).
- (8) Section 173A(4) and (5) apply to determine for the purposes of this section when a relevant investment is made.
- (9) Section 173A(6) and (7) (meaning of “trade” etc) apply also for the purposes of this section.

257MNC Maximum amount for cases outside section 257MNA

- (1) This section applies where—
- (a) the investment is made at any time after the period mentioned in section 257MNA(1)(a), and
 - (b) it is not the case that the conditions in section 257MNA(1)(b)(i) and (ii) are met.
- (2) Where this section applies—
- (a) the total amount of relevant investments made in the social enterprise on or before the date when the investment is made must not exceed £1.5 million, and
 - (b) the amount invested must not be more than the amount mentioned in subsection (3).
- (3) That amount is the amount given by the formula—

$$\left(\frac{[\text{euro}]200,000 - M}{RCG + RSI} \right) - T$$

where—

T is the total of any relevant investments made in the social enterprise in the aid period,

M is the total of any de minimis aid, other than relevant investments, that is granted during the aid period—

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- (a) to the social enterprise, or
- (b) to a qualifying subsidiary of the social enterprise at a time when it is such a subsidiary,

RCG is the highest rate at which capital gains tax is charged in the aid period, and

RSI is the highest SI rate in the aid period.

- (4) In subsection (3) “the aid period” means the 3 years—
- (a) ending with the day on which the investment is made, but
 - (b) in the case of that day, including only the part of the day before the investment is made.
- (5) In this section “de minimis aid” means de minimis aid which fulfils the conditions laid down [^{F11}in [Commission Regulation \(EU\) No 1407/2013](#) (de minimis aid) as it had effect in the United Kingdom immediately before IP completion day].
- ^{F12}(a)
- ^{F12}(b)
- (6) For the purposes of subsection (3), the amount of any de minimis aid is the amount of the grant or, if the aid is not in the form of a grant, the gross grant equivalent amount within the meaning of that Regulation [^{F13}as it had effect in the United Kingdom immediately before IP completion day].
- (7) For the purposes of subsection (3), if—
- (a) the investment or any relevant investment is made, or
 - (b) any aid is granted,
- in sterling or any other currency that is not the euro, its amount is to be converted into euros at an appropriate spot rate of exchange for the date on which the investment is made or the aid is paid.
- (8) In this section “relevant investment” has the meaning given by section 173A(3) (reading references in section 173A(3) to a company as including any social enterprise).
- (9) Section 173A(4) and (5) apply to determine for the purposes of this section when a relevant investment is made.
- (10) Section 257MNB (which expands the meaning of “relevant investments made in the social enterprise”) applies for the purposes of each of subsections (2) and (3) above as it applies for the purposes of section 257MNA(2).

Textual Amendments

- F11** Words in s. 257MNC(5) inserted (31.12.2020) by [The Taxes \(State Aid\) \(Amendments\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1499), regs. 1, [4\(7\)\(a\)\(i\)](#)
- F12** S. 257MNC(5)(a)(b) omitted (31.12.2020) by virtue of [The Taxes \(State Aid\) \(Amendments\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1499), regs. 1, [4\(7\)\(a\)\(ii\)](#)
- F13** Words in s. 257MNC(6) substituted (31.12.2020) by [The Taxes \(State Aid\) \(Amendments\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1499), regs. 1, [4\(7\)\(b\)](#)

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257MNLLimit on investment in shorter applicable period

- (1) This section applies where condition A or condition B is met.
- (2) Condition A is that—
 - (a) a company becomes a 51% subsidiary of the social enterprise at any time during the shorter applicable period,
 - (b) all or part of the money raised by the investment is employed for the purposes of a qualifying activity which consists wholly or partly of a trade carried on by that company, and
 - (c) that trade (or part of it) was carried on by that company before it became a 51% subsidiary as mentioned in paragraph (a).
- (3) Condition B is that all or part of the money raised by the investment is employed for the purposes of a qualifying activity which consists wholly or partly of a trade which, during the shorter applicable period, becomes a transferred trade (see subsection (9)).
- (4) Where this section applies, at each time in the shorter applicable period (“the relevant time”) the total of the relevant investments made in the social enterprise before that time must not exceed £1.5 million.
- (5) In subsection (4) the reference to relevant investments “made in the social enterprise” includes—
 - (a) relevant investments made in a company which at any time before the relevant time has been a 51% subsidiary of the social enterprise,
 - (b) any other relevant investment made in a company to the extent that the money raised by that relevant investment has been employed for the purposes of a trade carried on by another company (“company X”) which at any time before the relevant time has been a 51% subsidiary of the social enterprise, and
 - (c) any other relevant investment made in a company if—
 - (i) the money raised by that relevant investment has been employed for the purposes of a trade carried on by that company or another person, and
 - (ii) after that relevant investment was made, but before the relevant time, that trade (or part of it) became a transferred trade.
- (6) The investments within paragraph (a) of subsection (5)—
 - (a) include investments made in a company mentioned in that paragraph before it became a 51% subsidiary of the social enterprise, but
 - (b) where a company mentioned in that paragraph is not a 51% subsidiary of the social enterprise at the relevant time, do not include any investments made in that company after it last ceased to be such a subsidiary.
- (7) For the purposes of subsection (5)(b), where company X is not a 51% subsidiary of the social enterprise at the relevant time, any money employed after company X last ceased to be such a subsidiary is to be ignored.
- (8) Where only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a transferred trade, only the corresponding proportion of that relevant investment is to be treated as falling within subsection (5)(c).
- (9) For the purposes of this section, if—
 - (a) before the relevant time, a trade is transferred—

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- (i) to the social enterprise,
 - (ii) to a company which, at the relevant time, is or has been a 51% subsidiary of the social enterprise, or
 - (iii) to a partnership of which the social enterprise, or a company within sub-paragraph (ii), is a member, and
- (b) the trade or part of it was at any time before the transfer carried on by another person,
- the trade or part mentioned in paragraph (b) becomes a “ transferred trade ” when it is transferred as mentioned in paragraph (a).
- (10) The cases within subsection (9)(a)—
- (a) include the case where the trade is transferred to a company within subsection (9)(a)(ii), or a partnership of which such a company is a member, before the company became a 51% subsidiary of the social enterprise, but
 - (b) where a company within subsection (9)(a)(ii) is not a 51% subsidiary of the social enterprise at the relevant time, do not include the case where the trade is transferred to that company, or a partnership of which that company is a member, after that company last ceased to be such a subsidiary.
- (11) In this section—
- “qualifying activity” has the same meaning as in section 257MNA (see subsection (4) of that section);
 - “relevant investment” has the meaning given by section 173A(3) (reading references in section 173A(3) to a company as including any social enterprise).
- (12) Section 173A(4) and (5) apply to determine for the purposes of this section when a relevant investment is made.
- (13) Section 173A(6) and (7) (meaning of “trade” etc) apply also for the purposes of this section.

257MNE Power to amend limits on amounts that may be invested

- (1) The Treasury may by regulations substitute a different figure for the figure for the time being specified in section 257MNA(2), 257MNC(2) or (3) or 257MND(4).
- (2) Regulations under this section may make incidental, supplemental, consequential, transitional or saving provision.
- (3) Regulations under this section may not be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, the House of Commons.]

Interpretation of conditions relating to the social enterprise

257MP Meaning of “qualifying trade”

- (1) For the purposes of this Chapter, a trade is a qualifying trade if—
 - (a) it is conducted on a commercial basis and with a view to the realisation of profits, and

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- (b) it does not at any time in the shorter applicable period consist wholly or as to a substantial part in the carrying-on of excluded activities.
- (2) References in this section and sections 257MQ to 257MT (excluded activities) to a trade are to be read without regard to the definition of “trade” in section 989.

257MQ Meaning of “excluded activity”

(1) The following are excluded activities for the purposes of sections 257JD, 257MJ and 257MP—

- (a) dealing in land, in commodities or futures or in shares, securities or other financial instruments,
- (b) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities ^{F14} ...,
- ^{F15}(ba) [leasing (including letting ships on charter or other assets on hire),
- (bb) receiving royalties or licence fees,
- (bc) operating or managing nursing homes or residential care homes or managing property used as a nursing home or residential care home (see section 257MQA),
- (bd) generating electricity, exporting electricity (see subsection (3)) or making electricity generating capacity available,
- (be) generating heat,
- (bf) generating any form of energy not within paragraph (bd) or (be),
- (bg) producing gas or fuel,]
- (c) property development (see section 257MR),
- (d) activities in the fishery and aquaculture sector that is covered by Council Regulation (EC) No. 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products,
- (e) the primary production of products listed in Annex I to the Treaty on the Functioning of the European Union (agricultural etc products), with the exception of products covered by Council Regulation EC() No. 104/2000 (fishery and aquaculture products),
- ^{F16}(f)
- (g) road freight transport for hire or reward, and
- (h) providing services or facilities for a business carried on by another person (other than a company of which the provider of the services or facilities is a qualifying subsidiary) if—
 - (i) the business consists wholly or as to a substantial part of activities falling within any of paragraphs (a) to (g), and
 - (ii) a controlling interest (see section 257MT) in the business is held by a person who also has a controlling interest in the business carried on by the provider of the services or facilities.

^{F17}(2)

[For the purposes of subsection (1)(bd) electricity is exported if it is exported onto a ^{F18}(3) distribution system or transmission system (within the meaning of section 4 of the Electricity Act 1989).]

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Textual Amendments

- F14** Words in s. 257MQ(1)(b) omitted (with application in accordance with Sch. 1 para. 15 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 10\(2\)\(a\)](#)
- F15** Ss. 257MQ(1)(ba)-(bg) inserted (with application in accordance with Sch. 1 para. 15 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 10\(2\)\(b\)](#)
- F16** S. 257MQ(1)(f) omitted (with application in accordance with Sch. 6 para. 14 of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 6 para. 13\(2\)](#); S. 257MQ(1)(f) omitted (with application in accordance with Sch. 1 para. 15 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 10\(2\)\(c\)](#)
- F17** S. 257MQ(2) omitted (with application in accordance with Sch. 1 para. 15 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 10\(3\)](#)
- F18** S. 257MQ(3) inserted (with application in accordance with Sch. 1 para. 15 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 10\(4\)](#)

Excluded activities: nursing homes and residential care homes

F19 **257MQA**

- (1) This section supplements section 257MQ(1)(bc).
- (2) “Nursing home” means any establishment which exists wholly or mainly for the provision of nursing care—
- (a) for persons suffering from sickness, injury or infirmity, or
 - (b) for women who are pregnant or have given birth.
- (3) “Residential care home” means any establishment which exists wholly or mainly for the provision of residential accommodation, together with board and personal care, for persons in need of personal care because of—
- (a) old age,
 - (b) mental or physical disability,
 - (c) past or present dependence on alcohol or drugs,
 - (d) any past illnesses, or
 - (e) past or present mental disorder.
- (4) The activities of a person are not to be taken to fall within section 257MQ(1)(bc) unless that person has an estate or interest in, or is in occupation of, the nursing home or residential care home in question.]

Textual Amendments

- F19** [S. 257MQA](#) inserted (with application in accordance with Sch. 1 para. 15 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 10\(5\)](#)

257MR Excluded activities: property development

- (1) For the purposes of section 257MQ(1)(c) “property development” means the development of land—
- (a) by a company which has, or at any time has had, an interest in the land, and
 - (b) with the sole or main object of realising a gain from the disposal of an interest in the land when it is developed.

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- (2) For the purposes of subsection (1) “interest in land” means (subject to subsection (3))
- (a) any estate, interest or right in or over land, including any right affecting the use or disposition of land, or
 - (b) any right to obtain such an estate, interest or right from another which is conditional on the other's ability to grant it.
- (3) References in this section to an interest in land do not include—
- (a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of mortgage, an agreement for a mortgage or a charge of any kind over land, or
 - (b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.

F20 257MS Excluded activity: subsidised generation or export of electricity

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Textual Amendments

F20 S. 257MS omitted: (with application in accordance with Sch. 6 para. 14 of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), Sch. 6 para. 13(3); (with application in accordance with Sch. 1 para. 15 of the amending Act) by virtue of [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 1 para. 10\(6\)](#)

257MT Excluded activity: providing services or facilities for another business

- (1) This section explains what is meant by a controlling interest in a business for the purposes of section 257MQ(1)(h).
- (2) In the case of a business carried on by a company, a person (“A”) has a controlling interest in the business if—
- (a) A controls the company,
 - (b) the company is a close company and A, or an associate of A, is a director of the company and either—
 - (i) is the beneficial owner of more than 30% of the ordinary share capital of the company, or
 - (ii) is able, directly or through the medium of other companies or by any other indirect means, to control more than 30% of that share capital, or
 - (c) at least half of the business could, in accordance with section 942 of CTA 2010, be regarded as belonging to A for the purposes of section 941 of CTA 2010 (company reconstructions without a change of ownership).
- (3) In any other case, a person has a controlling interest in a business if the person is entitled to at least half of the assets used for, or of the income arising from, the business.
- (4) For the purposes of this section—
- (a) any rights or powers of a person who is an associate of another are to be attributed to that other person, and
 - (b) “business” includes any trade, profession or vocation.

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257MU Meaning of “qualifying subsidiary”

- (1) For the purposes of this Part, a company (“the subsidiary”) is a qualifying subsidiary of another company (“the parent”) if—
 - (a) the subsidiary is a 51% subsidiary of the parent,
 - (b) no person other than the parent, or another of its subsidiaries, has control of the subsidiary, and
 - (c) no arrangements are in existence as a result of which either of the conditions in paragraphs (a) and (b) would cease to be met.
- (2) The conditions in subsection (1)(a) to (c) do not cease to be met merely because the subsidiary or any other company is wound up, or dissolved without winding up, if the winding-up or dissolution—
 - (a) is for genuine commercial reasons, and
 - (b) is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.
- (3) The conditions in subsection (1)(a) to (c) do not cease to be met merely because of anything done as a consequence of the subsidiary or another company being in administration, or receivership, if—
 - (a) the entry into administration or receivership, and
 - (b) everything done as a consequence of the company concerned being in administration or receivership,
 is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.
- (4) The conditions in subsection (1)(a) to (c) do not cease to be met merely because arrangements are in existence for the disposal by the parent or (as the case may be) by another subsidiary of all its interest in the subsidiary if the disposal—
 - (a) is to be for genuine commercial reasons, and
 - (b) is not to be part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

257MV Meaning of “90% social subsidiary” of a social enterprise

- (1) For the purposes of this Chapter, a company (“the subsidiary”) is a 90% social subsidiary of another company (“the parent”) if—
 - (a) the subsidiary is a social enterprise,
 - (b) the parent possesses at least 90% of the issued share capital of, and at least 90% of the voting power in, the subsidiary,
 - (c) the parent would—
 - (i) in the event of a winding-up of the subsidiary, or
 - (ii) in any other circumstances,
 be beneficially entitled to receive at least 90% of the assets of the subsidiary which would then be available for distribution to equity holders of the subsidiary,
 - (d) the parent is beneficially entitled to receive at least 90% of any profits of the subsidiary which are available for distribution to equity holders of the subsidiary,
 - (e) no person other than the parent has control of the subsidiary, and

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- (f) no arrangements are in existence as a result of which any of the conditions in paragraphs (a) to (e) would cease to be met.
- (2) For the purposes of this Chapter, a company (“company A”) which is a subsidiary of another company (“company B”) is a 90% social subsidiary of a third company (“company C”) if—
- (a) company A is a 90% social subsidiary of company B, and company B is a 100% social subsidiary of company C, or
 - (b) company A is a 100% social subsidiary of company B, and company B is a 90% social subsidiary of company C.
- (3) For the purposes of subsection (2) no account is to be taken of any control company C may have of company A.
- (4) For the purposes of subsection (2), a company (“company X”) is a 100% social subsidiary of another company (“company Y”) at any time when the conditions in subsection (1)(a) to (f) would be met if—
- (a) company X were the subsidiary,
 - (b) company Y were the parent, and
 - (c) in subsection (1) for “at least 90%” there were substituted “100%”.
- (5) The conditions in subsection (1)(a) to (f) do not cease to be met merely because of anything done as a consequence of the subsidiary or any other company being wound up, or dissolved without being wound up, if the winding-up or dissolution—
- (a) is for genuine commercial reasons, and
 - (b) is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.
- (6) The conditions in subsection (1)(a) to (f) do not cease to be met merely because of anything done as a consequence of the subsidiary or any other company being in administration, or receivership, if—
- (a) the entry into administration or receivership, and
 - (b) everything done as a consequence of the company concerned being in administration or receivership,
- is for genuine commercial reasons, and is not part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.
- (7) The conditions in subsection (1)(a) to (f) do not cease to be met merely because any arrangements are in existence for the disposal by the parent of all its interest in the subsidiary if the disposal—
- (a) is to be for genuine commercial reasons, and
 - (b) is not to be part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.
- (8) For the purposes of subsection (1)—
- (a) the persons who are equity holders of the subsidiary, and
 - (b) the percentage of the assets of the subsidiary to which an equity holder would be entitled,
- are to be determined in accordance with Chapter 6 of Part 5 of CTA 2010.
- (9) In making that determination—

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- (a) references in section 166 of that Act to company A are to be read as references to an equity holder, and
- (b) references in that section to winding up are to be read as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.]

[^{F21}257MW Excluded activities: power to amend

- (1) The Treasury may by regulations add to, repeal or otherwise amend any provision of sections 257MQ to 257MT (excluded activities).
- (2) Regulations under this section may—
 - (a) make different provision for different cases or purposes;
 - (b) contain incidental, supplemental, consequential and transitional provision and savings.
- (3) So far as they cause an activity to cease to be an excluded activity, amendments made by regulations under this section may have effect in relation to times before they come into force, but not times before 6 April 2015.
- (4) This section is without prejudice to any other power to amend any provision of this Part.]

Textual Amendments

- F21** S. 257MW inserted (with effect in accordance with Sch. 6 para. 5 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 6 para. 1](#)

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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.)