



Income Tax Act 2007

2007 CHAPTER 3

PART 6

VENTURE CAPITAL TRUSTS

CHAPTER 6

SUPPLEMENTARY AND GENERAL

Acquisitions for restructuring purposes

326 Restructuring to which [^{F1}sections 326A, 327 and 327A apply]

- (1) [^{F2}Sections 326A, 327 and 327A apply] if—
- (a) arrangements are made for a company (“the new company”) to acquire all the shares (“old shares”) in another company (“the old company”),
 - (b) the acquisition provided for by the arrangements falls within subsection (2), and
 - (c) the Commissioners for Her Majesty's Revenue and Customs have, before any exchange of shares takes place under the arrangements, given an approval notification.
- (2) An acquisition of shares falls within this subsection if—
- (a) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company,
 - (b) new shares are issued in consideration of old shares only at times when there are no issued shares in the new company other than subscriber shares and new shares previously issued in consideration of old shares,
 - (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description, and
 - (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of, and in proportion to, their holdings.

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 6. (See end of Document for details)

- (3) For the purposes of subsection (1)(c) an approval notification is one which, on the application of either the old company or the new company, is given to the applicant company and states that the Commissioners for Her Majesty's Revenue and Customs are satisfied that the exchange of shares under the arrangements—
- (a) will be effected for genuine commercial reasons, and
 - (b) will not form part of any such scheme or arrangements as are mentioned in section 137(1) of TCGA 1992 (schemes with avoidance purposes).
- (4) ^{F3}Nothing in section 326A treats any of the requirements of Chapter 3 as being met, and nothing in section 327 treats any of the requirement of Chapter 4 as being met] in relation to any new shares unless the matching old shares were first issued to the company holding them and have been held by that company from the time when they were issued until they are acquired by the new company.
- (5) If, at any time after the arrangements first came into existence and before the new company acquired all the old shares, the arrangements—
- (a) cease to be arrangements for the acquisition of all the old shares by the new company, or
 - (b) cease to be arrangements for an acquisition falling within subsection (2),
- section ^{F4}326A does not treat any requirement of Chapter 3 as being met and section] 327 does not treat any requirement of Chapter 4 as being met, and subsection (8) of that section does not apply, in the case of any new shares at any time after the arrangements have so ceased.

Textual Amendments

- F1** Words in s. 326 heading substituted (with effect in accordance with s. 12(4) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 12\(2\)\(a\)](#)
- F2** Words in s. 326(1) substituted (with effect in accordance with s. 12(4) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 12\(2\)\(b\)](#)
- F3** Words in s. 326(4) substituted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 6 para. 16\(3\)](#)
- F4** Words in s. 326(5) inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 6 para. 16\(4\)](#)

^{F5}326A Certain requirements of Chapter 3 to be treated as met

- (1) If this section applies, subsections (2) to (6) have effect to determine the extent to which, and the time for which, the following conditions in Chapter 3 are met in relation to the old shares and the new shares—
- the investment limits condition (see section 280B);
 - the permitted maximum age condition (see section 280C);
 - the no business acquisition condition (see section 280D).
- (2) If—
- (a) there is an exchange under the arrangements of any new shares for any old shares, and
 - (b) those old shares are an investment in relation to which the investment limits condition, the permitted maximum age condition or the no business acquisition condition is (or is treated as being) met to any extent,
- those conditions are to be treated as met to the same extent in relation to the matching new shares.

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See subsections (3) to (6) for further provision about when those conditions are treated as met in relation to the old shares.

- (3) If—
- (a) the exchange occurs during the period of 5 years beginning with the day after the day on which the old shares were issued, and
 - (b) those old shares are shares in relation to which section 280B(2)(c) applies, section 280B(2)(c) is to be treated as applying in relation to the matching new shares.
- (4) In determining whether section 280B(2)(c) applies in relation to the old shares—
- (a) condition A is treated as met if it would be met if the reference in section 280B(3B)(a)(i) to a company which becomes a 51% subsidiary of the relevant company during the 5-year post-investment period included a reference to a company which becomes a 51% subsidiary of the new company during that period otherwise than as a result of the exchange, and
 - (b) in relation to investments made or trades transferred at or after the time of the exchange, references to the relevant company in section 280B(3C)(b) and (3F)(a) are to be read as references to the new company.
- (5) The permitted maximum age condition is met in relation to the old shares if (and only if) it would be met if—
- (a) in section 280C(5)(a)(ii) and (6)(a) the references to relevant investments made in the relevant company included a reference to the relevant investments made in the new company,
 - (b) in section 280C(7)(d) and (f) the references to the relevant company included a reference to the new company,
 - (c) in paragraphs (a)(ii) and (b)(iii) of the definition of “the total relevant turnover amount” in section 280C(9) the reference to a company which becomes a 51% subsidiary of the relevant company after the investment date included a reference to a company which becomes a 51% subsidiary of the new company after that date otherwise than as a result of the exchange.
- (6) The no business acquisition condition is met in relation to the old shares if (and only if) it would be met if, in section 280D(2), references to the relevant company were read as including a reference to the new company.]

Textual Amendments

F5 S. 326A inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 6 para. 17](#)

327 Certain requirements of Chapter 4 to be treated as met

- (1) If this section applies, subsections (2) to (8) have effect to determine the extent to which, and the times for which, the requirements of the following provisions of Chapter 4 are met in relation to the new shares—
- section 287 (the maximum qualifying investment requirement),
 - section 289 (the proportion of eligible shares requirement),
 - section 290 (the trading requirement),
 - section 291 (the carrying on of a qualifying activity requirement),

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[^{F6}section 292A (the maximum amount raised annually through risk finance investments requirement),
 section 292AA (the maximum amount raised through risk finance investments when relevant holding is issued requirement),
 section 292AB (the maximum risk finance investments during the 5-year post-investment period requirement),]
 section 293 (the use of the money raised requirement),
 section 294 (the relevant company to carry on the relevant qualifying activity requirement),
 [^{F7} section 294A (the permitted company age requirement),]
 section 296 (the control and independence requirement), ^{F8}...
 section 297 (the gross assets requirement), ^{F9}...
 section 297A (the number of employees requirement) [^{F10}, and
 section 297B (the proportion of skilled employees requirement).]

- (2) If the requirements of sections 290 and 291 were met in relation to the old company and any old shares immediately before the beginning of the period for giving effect to the arrangements, then (so far as it would not otherwise be the case) those requirements are treated as being met in relation to the new company and the matching new shares at all times which—
- (a) fall in that period, and
 - (b) do not fall after a time when (apart from the arrangements) those requirements would have ceased by virtue of—
 - (i) section 291(4) or (5), or
 - (ii) any cessation of a trade by any company,
 to be met in relation to the old company and the matching old shares.
- (3) For the purposes of section 291, the period of two years mentioned in subsection (4) of that section is treated, in the case of any new shares, as expiring at the same time as it would have expired (or by virtue of this subsection would have been treated as expiring) in the case of the matching old shares.
- (4) Subject to subsection (5), if—
- (a) there is an exchange under the arrangements of any new shares for any old shares, and
 - (b) those old shares are shares in relation to which the requirements of sections [^{F11}292A, 292AA, 292AB], 293, 294 [^{F12}, 294A], 297 [^{F13}, 297A and 297B] were (or were treated as being) met to any extent immediately before the exchange,
- those requirements are to be treated, at all times after that time, as met to the same extent in relation to the matching new shares.

[^{F14}(4A) If—

- (a) there is an exchange under the arrangements of any new shares for any old shares,
- (b) that exchange occurs during the period of 5 years beginning with the day after the day on which the old shares were issued, and
- (c) those old shares are shares in relation to which the requirement of section 292AB (maximum risk finance investments during 5-year post-investment period) applies and is met,

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that requirement is to be treated as applying and met in relation to the matching new shares.

- (4B) But, where that requirement applies in relation to the old shares, it is met in relation to those shares if (and only if) it would be met were—
- (a) the first reference to the relevant company in section 292AB(4), and
 - (b) the references to the relevant company in section 292AB(5) and (7)(a)(i),
- read, in relation to times in that 5 year period which fall at or after the time of the exchange, as references to the new company.
- (4C) For the purposes of subsections (4A) and (4B), the requirement in section 292AB is treated as applying in relation to the old shares if condition A or B in that section would be met if references in section 292AB(5) and (7)(a)(i) to the relevant company were read as references to the new company.
- (4D) The requirement in section 293 (the use of money raised) is met in relation to the old shares if (and only if) it would be met if references to the relevant company in section 293(5ZA) were read as including a reference to the new company.
- (4E) The requirement of section 294A (permitted company age) is met in relation to the old shares if (and only if) it would be met if—
- (a) in section 294A(4) the reference to relevant investments made in the relevant company included a reference to relevant investments made in the new company,
 - (b) in section 294A(6)(d) and (f) the references to the relevant company included a reference to the new company,
 - (c) in paragraphs (a)(ii) and (b)(iii) of the definition of “the total relevant turnover amount” in section 294A(8) the reference to a company which becomes a 51% subsidiary of the relevant company after the investment date included a reference to a company which becomes a 51% subsidiary of the new company after that date otherwise than as a result of the exchange.
- (4F) If—
- (a) there is an exchange under the arrangements of any new shares for any old shares,
 - (b) that exchange occurs during the period of 3 years beginning with the issue of the old shares, and
 - (c) those old shares are shares in relation to which the requirement of section 297B (proportion of skilled employees requirement) is met,
- that requirement is to be treated as met in relation to the matching new shares.
- (4G) The requirement of section 297B is met in relation to the old shares if (and only if) it would be met in relation to those shares were references to the relevant company, in subsections (1) and (3) of that section (and, in the definitions of the terms mentioned in subsection (4) as they apply for the purposes of those subsections), read as references to the new company in relation to times in that 3 year period which fall at or after the exchange.]
- (5) If there is a time following any exchange under the arrangements of any new shares for any old shares when (apart from the arrangements) the requirement of section 293 would have ceased under—
- (a) subsection (1) of that section, or
 - (b) this subsection,

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to be met in relation to those old shares, that requirement ceases at that time to be met in relation to the matching new shares.

- (6) For the purposes of section 287, any new shares acquired under the arrangements are to be treated as representing an investment which—
- (a) raised the same amount of money as was raised (or, by virtue of this subsection, is treated as having been raised) by the issue of the matching old shares, and
 - (b) raised that amount by an issue of shares in the new company made at the time when the issue of the matching old shares took place (or, as the case may be, is treated as having taken place).
- (7) In determining whether the requirements of section 296 are met in relation to the old company or the new company at a time in the period for giving effect to the arrangements, ignore both—
- (a) the arrangements themselves, and
 - (b) any exchange of new shares for old shares that has already taken place under the arrangements.
- (8) For the purposes of section 289, the value of the new shares, both—
- (a) immediately after the time of their acquisition, and
 - (b) immediately after the time of any subsequent relevant event occurring by virtue of the arrangements,

is to be taken to be the same as the value, when last valued in accordance with that section, of the old shares for which they are exchanged.

Textual Amendments

- F6** Words in s. 327(1) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 6 para. 18(2)(a)**
- F7** Words in s. 327(1) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 6 para. 18(2)(b)**
- F8** Word in s. 327(1) repealed (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 27 Pt. 2(16)**
- F9** Word in s. 327(1) omitted (18.11.2015) by virtue of Finance (No. 2) Act 2015 (c. 33), **Sch. 6 para. 18(2)(c)**
- F10** Words in s. 327(1) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 6 para. 18(2)(c)**
- F11** Words in s. 327(4) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 6 para. 18(3)(a)**
- F12** Words in s. 327(4) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 6 para. 18(3)(b)**
- F13** Words in s. 327(4) substituted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 6 para. 18(3)(c)**
- F14** S. 327(4A)-(4G) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), **Sch. 6 para. 18(4)**

[^{F15}327A] Follow-on funding

- (1) Subsections (2) and (3) apply where—
 - (a) this section applies (see section 326(1)),
 - (b) the acquisition by the new company of all the old shares, which is provided for by the arrangements mentioned in section 326(1), takes place, and
 - (c) the acquisition falls within section 326(2).
- (2) If, after the acquisition, another company makes an investment in the new company, section 280C (the permitted maximum age condition) has effect in relation to that investment as if—

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- (a) in subsection (4)(a) the reference to a relevant investment having been made in the relevant company before the end of the initial investing period included a reference to a relevant investment having been made in the old company before the acquisition and before the end of the initial investing period, and
 - (b) in subsection (6)(a) the reference to relevant investments made in the relevant company included a reference to relevant investments made in the old company before the acquisition.
- (3) In relation to any relevant holding issued by the new company after the acquisition, section 294A (the permitted company age requirement) has effect as if—
- (a) in subsection (3)(a) the reference to a relevant investment having been made in the relevant company before the end of the initial investing period included a reference to a relevant investment having been made in the old company before the acquisition and before the end of the initial investing period, and
 - (b) in subsection (5)(a) the reference to relevant investments made in the relevant company included a reference to relevant investments made in the old company before the acquisition.
- (4) In subsection (3) “relevant holding” has the same meaning as in Chapter 4.]

Textual Amendments

F15 S. 327A inserted (with effect in accordance with s. 12(4) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 12\(3\)](#)

328 Supplementary

- (1) Subject to subsection (2), references in sections 326 and 327 and this section, except in the expression “subscriber shares”, to shares in a company include references to any securities of that company.
- (2) For the purposes of subsection (1) a relevant security of the old company is not to be treated as a security of the old company if—
 - (a) the arrangements do not provide for the acquisition of the security by the new company, or
 - (b) such treatment prevents section 326(1)(b) from being met in connection with the arrangements.
- (3) In subsection (2) “relevant security” means an instrument which is a security for the purposes of Chapter 4 merely because of section 285(2).
- (4) References in section 327 to the period for giving effect to the arrangements are references to the period which—
 - (a) begins with the time when the arrangements first came into existence, and
 - (b) ends with the time when the new company completes its acquisition under the arrangements of all the old shares.
- (5) For the purposes of sections 326 and 327 and this section—
 - (a) old shares and new shares are of a corresponding description if, were they shares in the same company, they would be of the same description, and

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- (b) old shares and new shares are matching shares in relation to each other if the old shares are the shares for which the new shares are exchanged under the arrangements.

Conversion of shares etc and company reorganisations

329 Conversion of convertible shares and securities

- (1) This section applies if—
- (a) shares have been issued to a company (“the investing company”) by the exercise by it of any right of conversion attached to other shares or securities held by it (“the convertibles”),
 - (b) the shares so issued are in the same company as the convertibles to which the right was attached,
 - (c) the convertibles to which the right was attached were first issued to the investing company and were held by it from the time they were issued until converted, and
 - (d) the right was attached to the convertibles when they were first so issued and was not varied before it was exercised.
- (2) If this section applies, subsections (3) and (4) have effect to determine the extent to which, and the times for which, the requirements of the following provisions of Chapter 4 are met in relation to the shares issued to the investing company by the exercise by it of the right of conversion—
- section 287 (the maximum qualifying investment requirement),
 - section 289 (the proportion of eligible shares requirement),
 - section 291 (the carrying on of a qualifying activity requirement),
 - section 293 (the use of the money raised requirement),
 - section 294 (the relevant company to carry on the relevant qualifying activity requirement), and
 - section 297 (the gross assets requirement).
- (3) Subsections (3) to (6) of section 327 apply in relation to the exchange of convertibles for shares by virtue of the exercise of the right of conversion as if—
- (a) that exchange were an exchange, under any arrangements to which that section applies, of new shares for old shares, and
 - (b) the references in those subsections and section 328(5)(b) to the arrangements were references to the provision conferring the right of conversion.
- (4) For the purposes of section 289 the value of the new shares immediately after the time of their acquisition by the investing company is to be taken as the same as the value, when last valued in accordance with that section, of the convertibles for which they are exchanged.

330 Power to facilitate company reorganisations etc involving exchange of shares

- (1) The Treasury may by regulations make provision for cases where—
- (a) a holding of shares or securities that meets the requirements of Chapter 4 is exchanged for other shares or securities,

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- (b) the exchange is made for genuine commercial reasons and does not form part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax, and
- (c) the new shares or securities do not meet some or all of the requirements of Chapter 4,

providing that the new shares or securities are to be treated as meeting those requirements.

^{F16}(1A) The Treasury may by regulations make provision for the purposes of this Part for cases where—

- (a) a holding of shares or securities that does not meet the requirements of Chapter 4 is exchanged for other shares or securities not meeting those requirements, and
- (b) the exchange is made for genuine commercial reasons and does not form part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.]

(2) The references in ^{F17}subsections (1) and (1A)] to an exchange of shares or securities include any form of company reorganisation or other arrangement which involves a holder of shares in or securities of a company receiving other shares or securities—

- (a) whether the original shares or securities are transferred, cancelled or retained, and
- (b) whether the new shares or securities are in or of the same or another company.

(3) ^{F18}Regulations under subsection (1)] must specify—

- (a) the cases in which, and conditions subject to which, they apply,
- (b) which requirements of Chapter 4 are to be treated as met, and
- (c) the period for which those requirements are to be treated as met.

^{F19}(3A) Regulations under subsection (1A) may, among other things, make provision—

- (a) for the new shares or securities to be treated in any respect in the same way as the original shares and securities for any period;
- (b) as to when the new shares or securities are to be regarded as having been acquired;
- (c) as to the valuation of the original or the new shares or securities.]

(4) ^{F20}Regulations under this section] may contain such administrative provisions (including provision for advance clearances) as appear to the Treasury to be necessary or appropriate.

^{F21}(5)

(6) Regulations under this section —

- (a) may make different provision for different cases,
- (b) may contain incidental, supplemental, consequential and transitional provision and savings, and
- (c) ^{F22}in the case of regulations under subsection (1)] may include provision having retrospective effect.

Textual Amendments

F16 S. 330(1A) inserted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. 13(2)

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- F17** Words in s. 330(2) substituted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. 13(3)
F18 Words in s. 330(3) substituted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. 13(4)
F19 S. 330(3A) inserted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. 13(5)
F20 Words in s. 330(4) substituted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. 13(6)
F21 S. 330(5) omitted (13.8.2009) by virtue of The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 1, Sch. para. 48
F22 Words in s. 330(6)(c) inserted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. 13(7)

[^{F23}Nominees

Textual Amendments

- F23** S. 330A and cross-heading inserted (17.7.2014) by Finance Act 2014 (c. 26), Sch. 10 para. 5

330A Nominees

Shares subscribed for, issued to, held by or disposed of for an individual by a nominee are treated for the purposes of this Part as subscribed for, issued to, held by or disposed of by the individual.]

[^{F24}Power to amend Part

Textual Amendments

- F24** S. 330B and cross-heading inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), Sch. 6 para. 19

330B Powers to amend Chapters 3 and 4 by Treasury regulations

- (1) The Treasury may by regulations add to, repeal or otherwise amend any provision of Chapter 3 or 4.
- (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) The provision which may be made as a result of subsection (2)(b) includes provision amending any provision of this or any other Act (including an Act passed after this Act).
- (4) Regulations under this section may, so long as they do not increase any person's liability to any tax, be made to have retrospective effect in relation to any time in the tax year in which they are made or the previous tax year.
- (5) This section is without prejudice to any other power to amend any provision of this Part.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.]

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Supplementary

331 Meaning of a company being “in administration” or “in receivership”

- (1) References in this Part to a company being “in administration” or “in receivership” are to be read as follows.
- (2) A company is “in administration” if—
 - (a) it is in administration within the meaning of Schedule B1 to the Insolvency Act 1986 (c. 45) or Schedule B1 to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
 - (b) there is in force in relation to it under the law of a country or territory outside the United Kingdom any appointment corresponding to an appointment of an administrator under either of those Schedules.
- (3) A company is “in receivership” if there is in force in relation to it—
 - (a) an order for the appointment of an administrative receiver, a receiver and manager or a receiver under Chapter 1 or 2 of Part 3 of the Insolvency Act 1986 or Part 4 of the Insolvency (Northern Ireland) Order 1989, or
 - (b) any corresponding order under the law of a country or territory outside the United Kingdom.

[^{F25}331A Meaning of “knowledge-intensive company”

- (1) For the purposes of this Part, the relevant company is a “knowledge-intensive company” at the applicable time if the company meets—
 - (a) one or both of the operating costs conditions (see subsections (3) and (4)), and
 - (b) one or both of—
 - (i) the innovation condition (see subsection (6)), and
 - (ii) the skilled employee condition (see subsection (9)).
- (2) “The applicable time” means—
 - (a) in relation to references to a knowledge-intensive company in section 280B or 280C, the date the current investment (within the meaning of the section in question) is made, and
 - (b) in relation to any other reference to a knowledge-intensive company, the date the relevant holding is issued.
- (3) The first operating costs condition is that in at least one of the relevant three preceding years at least 15% of the relevant operating costs constituted expenditure on research and development or innovation.
- (4) The second operating costs condition is that in each of the relevant three preceding years at least 10% of the relevant operating costs constituted such expenditure.
- (5) In subsections (3) and (4)—

“relevant operating costs” means—

 - (a) if the relevant company is a single company at the applicable time, the operating costs of that company, and
 - (b) if the relevant company is a parent company at the applicable time, the sum of—
 - (i) the operating costs of the relevant company, and

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(ii) the operating costs of each company which is a qualifying subsidiary of the relevant company at that time;
 “the relevant three preceding years” [^{F26}means, subject to subsection (5A), the three consecutive years the last of which ends immediately before the beginning of the last accounts filing period.]

[If the last accounts filing period ends more than 12 months before the applicable time,
^{F27}(5A) the relevant three preceding years are the three consecutive years the last of which ends 12 months before the applicable time.]

(6) “The innovation condition” is—

- (a) where the relevant company is a single company, that—
- (i) the relevant company is engaged in intellectual property creation at the applicable time, and
 - (ii) it is reasonable to assume that, within 10 years of the applicable time, one or a combination of—
 - (a) the exploitation of relevant intellectual property held by the company, and
 - (b) business which results from new or improved products, processes or services utilising relevant intellectual property held by the company,

will form the greater part of its business;

- (b) where the relevant company is a parent company, that—
- (i) the parent company or one or more of its qualifying subsidiaries (or both that company and one or more of those subsidiaries) is or are engaged in intellectual property creation at the applicable time, and
 - (ii) it is reasonable to assume that, within 10 years of the applicable time, one or a combination of—
 - (a) the exploitation of relevant intellectual property held by the parent company or any of its qualifying subsidiaries, and
 - (b) business which results from new or improved products, processes or services utilising relevant intellectual property held by the parent company or any of its qualifying subsidiaries,

will form the greater part of the business of the group, if the activities of the group companies taken together are regarded as one business.

(7) For the purposes of subsection (6), a company is engaged in intellectual property creation if—

- (a) relevant intellectual property is being created by the company, or has been created by it within the previous three years,
- (b) the company is taking, or preparing to take, steps in order that relevant intellectual property will be created by it, or
- (c) the company is carrying on activity which is the subject of a written evaluation which—
 - (i) has been prepared by an independent expert, and
 - (ii) includes a statement to the effect that, in the opinion of the expert, it is reasonable to assume that relevant intellectual property will, in the foreseeable future, be created by the company.

(8) For the purposes of this section—

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- (a) intellectual property is “relevant” intellectual property, in relation to a company, if the whole or greater part (in terms of value) of it is created by the company, and
 - (b) intellectual property is created by a company if it is created in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others).
- (9) “The skilled employee condition” is that at the applicable time—
- (a) if the relevant company is a single company, the FTE skilled employee number is at least 20% of the FTE employee number, and
 - (b) if the relevant company is a parent company, the FTE group skilled employee number is at least 20% of the FTE group employee number.
- (10) In this section—
- “FTE employee number” for a company is the full-time equivalent employee number determined in accordance with section 297A(3);
- “FTE group employee number” means the sum of—
- (a) the FTE employee number for the relevant company, and
 - (b) the FTE employee number for each of its qualifying subsidiaries;
- “FTE group skilled employee number” means the sum of—
- (a) the FTE skilled employee number for the relevant company, and
 - (b) the FTE skilled employee number for each of its qualifying subsidiaries;
- “FTE skilled employee number” for a company is determined in accordance with section 297A(3) in the same way as the full-time equivalent employee number except that only employees of the company who—
- (a) hold a relevant HE qualification, and
 - (b) are engaged directly in research and development or innovation activities carried on—
 - (i) if the relevant company is a single company, by that company, or
 - (ii) if the relevant company is a parent company, by that company or any qualifying subsidiary of that company,
- are to be taken into account;
- “independent expert”, in relation to an evaluation of activity of a company, means an individual who—
- (a) is not connected with the relevant company,
 - (b) holds a relevant HE qualification, and
 - (c) is an expert in the area of research and development or innovation being or to be pursued by the company in question,
- and, for the purposes of paragraph (a), sections 167, 170 and 171 (but not section 168) apply to determine if an individual is connected with the relevant company (with references in those sections to the issuing company read as references to the relevant company);
- “intellectual property” has the meaning given by section 306(6);
- “the last accounts filing period” means the last period for filing (within the meaning of section 442 of the Companies Act 2006) for the relevant company which ends before the applicable time;
- “operating costs”, of a company for a period, means expenses of the company which are recognised as expenses in the company's profit and loss account or

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income statement for that period, other than expenses relating to transactions between that company and another company at a time when both companies are members of the same group (but see also subsection (11));

“relevant HE qualification” means—

- (a) a qualification which is at level 7, or a higher level, of the framework for higher education qualifications in England, Wales and Northern Ireland (as that framework may be amended or replaced from time to time),
 - (b) a qualification which is at level 11, or a higher level, of the framework for qualifications of higher education institutions in Scotland (as that framework may be amended or replaced from time to time), or
 - (c) a comparable qualification to one within paragraph (a) or (b).
- (11) Such apportionments as are just and reasonable are to be made to amounts recognised in a company's profit and loss account or income statement for the purpose of determining the company's operating costs for a year.
- (12) The Treasury may by regulations amend this section for the purposes of adding, amending or removing a condition which must be met for a company to be a knowledge-intensive company.
- (13) A statutory instrument containing regulations under subsection (12) may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.]

Textual Amendments

- F25** S. 331A inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 6 para. 20](#)
- F26** Words in s. 331A(5) substituted (retrospectively) by [Finance Act 2016 \(c. 24\)](#), [s. 29\(5\)\(a\)\(6\)](#) (with s. 30)
- F27** S. 331A(5A) inserted (retrospectively) by [Finance Act 2016 \(c. 24\)](#), [s. 29\(5\)\(b\)\(6\)](#) (with s. 30)

[^{F28}331B Knowledge-intensive company reaching turnover of £200,000

- (1) This section has effect for the purposes of sections 280C(3)(a)(ii) and 294A(2)(a)(ii) (alternative initial investing period in case of knowledge-intensive company).
- (2) Where—
- (a) the annual turnover of the relevant company in relation to an accounting period (see subsection (3)) is £200,000 or more, and
 - (b) the annual turnover for the company in relation to each previous accounting period is less than £200,000,
- the company is treated as reaching an annual turnover of £200,000 or more by reference to the specified date (see subsection (4)).
- (3) The annual turnover in relation to an accounting period is—
- (a) the turnover for that accounting period (if the accounting period is for 12 months), or
 - (b) the turnover for the period of 12 months ending when that accounting period ends (if not).
- (4) The specified date is—

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- (a) in the case of an accounting period of 12 months or less, the last day of that accounting period;
 - (b) in the case of an accounting period of more than 12 months, the last day of the period of 12 months beginning when that accounting period begins.
- (5) The turnover of the relevant company for a period (“the period”) is treated for the purposes of this section as including the relevant turnover of any company that is a member of the same group as the relevant company during the whole or any part of the period (a “group company”).
- (6) The relevant turnover of a group company is—
- (a) its turnover for the period, if the group company is a member of the same group as the relevant company for the whole of the period;
 - (b) if the group company is a member of the same group as the relevant company for part of the period, its turnover for that part of the period.
- (7) Any necessary apportionments of turnover are to be made, on a time basis according to the respective lengths of the periods in question, for the purposes of subsections (3)(b) and (6).
- (8) In this section “turnover” has the meaning given by section 474(1) of the Companies Act 2006 and is to be determined by reference to—
- (a) the accounts of the company, and
 - (b) amounts recognised for accounting purposes.]

Textual Amendments

F28 S. 331B inserted (6.4.2018) by [Finance Act 2018 \(c. 3\)](#), [Sch. 4 paras. 9, 10](#); S.I. 2018/931, reg. 3(b)

332 Minor definitions etc

In this Part—

“associate” has the meaning given by section 253,

“company” includes any body corporate or unincorporated association but does not include a partnership, and is to be read in accordance with [F²⁹section 99] of TCGA 1992 (unit trust schemes),

“director” is read in accordance with [F³⁰section 452 of CTA 2010],

“group” means a parent company and its qualifying subsidiaries,

“group company”, in relation to a group, means the parent company or any of its qualifying subsidiaries,

“ordinary shares” means shares forming part of a company's ordinary share capital,

“parent company” means a company that has one or more qualifying subsidiaries and “single company” means a company that does not,

“research and development” has the meaning given by section 1006, and

“shares” includes stock.

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*Changes to legislation: There are currently no known outstanding effects
for the Income Tax Act 2007, Chapter 6. (See end of Document for details)*

Textual Amendments

- F29** Words in s. 332 substituted (1.1.2018) by [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), **12(a)** (with reg. 1(2)(3)) and words in s. 332 omitted (1.1.2018) by virtue of [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), **12(b)** (with reg. 1(2)(3)) which amendments fall due to the omission of Finance Act, Sch. 22 para. 11(5) (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), 13
- F30** Words in s. 332 substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 507** (with Sch. 2)

Status:

Point in time view as at 06/04/2018.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 6.