

CORPORATION TAX ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Part 7: Community investment tax relief

Chapter 4: Limitations on claims and attribution

Overview

852. This Chapter is based on Part 5 of Schedule 16 to FA 2002 other than paragraphs 20 and 21. Sections 220 and 222 in Chapter 1 are based on those two paragraphs.

Section 236: Loans: no claim after disposal or excessive repayments or receipts of value

853. This section prevents a claim being made for any accounting period in respect of an investment by way of loan in certain circumstances. It is based on paragraph 22 of Schedule 16 to FA 2002. This section links to the provisions in sections 243, 245 and 246 which provide for a tax reduction already given to be recaptured in similar circumstances.

Section 237: Securities or shares: no claim after disposal or excessive receipts of value

854. This section sets out two conditions to be met before a claim can be made for any accounting period in respect of a subscription for securities or shares. It is based on paragraph 23 of Schedule 16 to FA 2002.

855. The first condition (*subsection (1)*) is that the investor has not disposed of the securities or shares before the first anniversary of the investment date which occurs after the end of the accounting period.

856. The second condition (*subsection(2)*) is that the investor has not received or is not treated as having received value from the CDFI in excess of the limits allowed under section 247.

Section 238: No claim after loss of accreditation by the CDFI

857. This section provides that no claim may be made if the CDFI ceases to be accredited. It is based on paragraph 24 of Schedule 16 to FA 2002.

858. Depending on the investment date and the date upon which the CDFI ceased to be accredited, this section may prevent a claim being made for the accounting period before that in which the CDFI ceased to be accredited (see *subsections (2) to (4)*).

859. Subsections (2) to (4) unpack paragraph 24(2) of Schedule 16 to FA 2002 in order to make its various elements clearer.

Section 239: Accreditation of investor

860. This section provides that no claim may be made if the investor becomes accredited as a CDFI. It is based on paragraph 25 of Schedule 16 to FA 2002. This section has no equivalent in Part 7 of ITA as an individual cannot be a CDFI.
861. Depending on the investment date and the date upon which the investor becomes accredited, this section may prevent a claim being made for the accounting period before that in which it became accredited (see *subsections (2) to (4)*).
862. *Subsections (3) to (5)* unpack paragraph 25(2) of Schedule 16 to FA 2002 in the same way that section 238(2) to (4) unpack paragraph 24(2) of that Schedule.

Section 240: Attribution: general

863. This section sets out the general rules dealing with the attribution to the loan, securities or shares of the reduction in the investor's corporation tax liability for any accounting period made as a result of the investor's entitlement to CITR. It is based on paragraph 26(1) to (4), (7) and (8) of Schedule 16 to FA 2002.
864. Attribution is required for the purpose of determining the amount of the tax reduction which must be withdrawn or reduced in accordance with Chapter 5 of this Part.

Section 241: Attribution: bonus shares

865. This section sets out additional rules relating to attribution, to deal with the consequences of an issue of "corresponding bonus shares" (see *subsection (4)*) to the investor in respect of the original shares included in the investment. It is based on paragraph 26(5) and (6) of Schedule 16 to FA 2002.