



# Finance Act 2016

## 2016 CHAPTER 24

### PART 1

#### INCOME TAX

*Reliefs: enterprise investment scheme, venture capital trusts etc*

#### **28 EIS, SEIS and VCTs: exclusion of energy generation**

- (1) In section 192(1) of ITA 2007 (meaning of “excluded activities”: EIS and SEIS), for paragraphs (ka) to (kc) substitute—
  - “(ka) generating or exporting electricity or making electricity generating capacity available,
  - (kb) generating heat,
  - (kc) generating any form of energy not within paragraph (ka) or (kb),
  - (kd) producing gas or fuel, and”.
- (2) In section 303(1) of ITA 2007 (meaning of “excluded activities”: VCTs), for paragraphs (ka) to (kc) substitute—
  - “(ka) generating or exporting electricity or making electricity generating capacity available,
  - (kb) generating heat,
  - (kc) generating any form of energy not within paragraph (ka) or (kb),
  - (kd) producing gas or fuel, and”.
- (3) In consequence of subsection (1), ITA 2007 is amended as follows—
  - (a) in section 192(2)—
    - (i) for paragraph (g) substitute “and
    - (g) section 198A (export of electricity).”;
    - (ii) omit paragraph (h);
  - (b) in section 198A—
    - (i) in the heading, omit “subsidised generation or”;

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- (ii) omit subsections (3) to (9);
  - (c) omit section 198B.
- (4) In consequence of subsection (2), ITA 2007 is amended as follows—
  - (a) in section 303(2)—
    - (i) for paragraph (g) substitute “and
    - (g) section 309A (export of electricity).”;
    - (ii) omit paragraph (h);
  - (b) in section 309A—
    - (i) in the heading, omit “subsidised generation or”;
    - (ii) omit subsections (3) to (9);
  - (c) omit section 309B.
- (5) The amendments made by subsections (1) and (3) have effect in relation to shares issued on or after 6 April 2016.
- (6) The amendments made by subsections (2) and (4) have effect in relation to relevant holdings issued on or after 6 April 2016.

## 29 EIS and VCTs: definition of certain periods

- (1) In section 175A of ITA 2007 (EIS: the permitted maximum age requirement)—
  - (a) in subsection (7) for the words from “five” to the end substitute “ relevant five year period. ”;
  - (b) after that subsection insert—
    - “(7A) Subject to subsection (7B), the relevant five year period is the five year period which ends immediately before the beginning of the last accounts filing period.
    - (7B) If the last accounts filing period ends more than 12 months before the issue date, the relevant five year period is the five year period which ends 12 months before the issue date.”
- (2) In section 252A of ITA 2007 (EIS: meaning of “knowledge-intensive company”)—
  - (a) in subsection (4), in the definition of “the relevant three preceding years”, for the words from “means” to the end substitute “ means, subject to subsection (4A), the three consecutive years the last of which ends immediately before the beginning of the last accounts filing period. ”;
  - (b) after that subsection insert—
    - “(4A) If the last accounts filing period ends more than 12 months before the date on which the relevant shares are issued, the relevant three preceding years are the three consecutive years the last of which ends 12 months before the date on which the relevant shares are issued.”
- (3) In section 280C of ITA 2007 (VCTs: the permitted maximum age condition)—
  - (a) in subsection (8) for the words from “five” to the end substitute “ relevant five year period. ”;
  - (b) after that subsection insert—

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“(8A) Subject to subsection (8B), the relevant five year period is the five year period which ends immediately before the beginning of the last accounts filing period.

(8B) If the last accounts filing period ends more than 12 months before the investment date, the relevant five year period is the five year period which ends 12 months before the investment date.”

(4) In section 294A of ITA 2007 (VCTs: the permitted company age requirement)—

- (a) in subsection (7) for the words from “five” to the end substitute “ relevant five year period. ”;
- (b) after that subsection insert—

“(7A) Subject to subsection (7B), the relevant five year period is the five year period which ends immediately before the beginning of the last accounts filing period.

(7B) If the last accounts filing period ends more than 12 months before the investment date, the relevant five year period is the five year period which ends 12 months before the investment date.”

(5) In section 331A of ITA 2007 (VCTs: meaning of “knowledge-intensive company”)—

- (a) in subsection (5), in the definition of “the relevant three preceding years”, for the words from “means” to the end substitute “ means, subject to subsection (5A), the three consecutive years the last of which ends immediately before the beginning of the last accounts filing period. ”;
- (b) after that subsection insert—

“(5A) If the last accounts filing period ends more than 12 months before the applicable time, the relevant three preceding years are the three consecutive years the last of which ends 12 months before the applicable time.”

(6) The amendments made by this section are to be treated as always having had effect; but this is subject to section 30.

## **30 EIS and VCTs: election**

(1) If a company (“the relevant company”) makes an election for this section to apply, then—

- (a) the amendments made by subsection (1) of section 29 do not apply in relation to shares issued by the relevant company in the material period,
- (b) the amendments made by subsection (2) of that section do not apply for the purposes of determining whether, at the date of issue of any shares issued by the company in the material period, the company is a knowledge-intensive company for the purposes of Part 5 of ITA 2007,
- (c) the amendments made by subsection (3) of that section do not apply in relation to investments made in the relevant company in the material period,
- (d) the amendments made by subsection (4) of that section do not apply for the purposes of determining whether the requirement of section 294A of ITA 2007 is met in relation to any holding of shares or securities issued by the relevant company in the material period, and

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- (e) the amendments made by subsection (5) of that section do not apply for the purposes of determining whether, at any time in the material period which is the applicable time within the meaning given by section 331A of ITA 2007, the relevant company is a knowledge-intensive company for the purposes of Part 6 of ITA 2007.
- (2) Amendments that by reason of an election under this section do not apply in relation to particular shares or investments or for particular purposes are also to be treated as never having applied in relation to those shares or investments or for those purposes.
- (3) Any election under this section must be made in writing and signed by a director of the relevant company.
- (4) Where a company has made an election under this section—
  - (a) it must include a statement that the election has been made in any compliance statement subsequently provided by it under section 204(2) of ITA 2007 in respect of an issue of shares made by it in the material period, and
  - (b) it must provide a copy of the election to each company to which it has issued shares or securities in the material period.
- (5) An election under this section is irrevocable.
- (6) In this section “the material period” means the period beginning with 18 November 2015 (the date when F(No. 2)A 2015 was passed) and ending with 5 April 2016.

### 31 VCTs: requirements for giving approval

- (1) Section 274 of ITA 2007 (requirements for the giving of approval) is amended as follows.
- (2) In the table in subsection (2), after the entry beginning “The 70% eligible shares condition” insert—

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“The non-qualifying investments condition	The company has not made and will not make, in the relevant period, an investment which is neither of the following— <ul style="list-style-type: none"> <li>(a) an investment that on the date it is made is included in the company's qualifying holdings;</li> <li>(b) an investment falling within subsection (3A).”</li> </ul>
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- (3) In subsection (3), in each of paragraphs (f), (g) and (h), for “(3A)” substitute “(3ZA)”.
- (4) After subsection (3) insert—
 

“(3ZA) In the second column of the table in subsection (2), in the entries for the investment limits condition, the permitted maximum age condition and the no business acquisition condition, any reference to an investment made by the company in a company does not include an investment falling within subsection (3A).”
- (5) In subsection (3A)—
  - (a) for the words from “In the second” to “does not include” substitute “ An investment made by a company (“the investor”) falls within this subsection if it is ”;
  - (b) in paragraph (c) for “the company” substitute “ the investor ”;

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- (c) after paragraph (c) insert—
  - “(d) money in the investor's possession;
  - (e) a sum owed to the investor which—
    - (i) under section 285(4)(b) (read with section 285(5) and (6)) is to be regarded as an investment of the investor, and
    - (ii) is such that the investor's right mentioned in section 285(5)(a) may be exercised on 7 days' notice given by the investor.”
- (6) After subsection (3A) insert—
  - “(3B) In subsection (3A), any reference to a thing which may be done on 7 days' notice includes a case where that thing may be done—
    - (a) on less than 7 days' notice, or
    - (b) without notice.”
- (7) In subsection (5)—
  - (a) after paragraph (b) insert—
    - “(ba) amend or repeal subsection (3B) in consequence of any provision made under paragraph (b),”;
    - (b) in paragraph (c) for the words from “made by” to “(3A)” substitute “ falling within subsection (3A) may be held by the company ”.
- (8) The amendments made by this section have effect in relation to investments made on or after 6 April 2016.

**Changes to legislation:**

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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):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)