
STATUTORY INSTRUMENTS

1995 No. 1979

The Venture Capital Trust Regulations 1995

PART III

RELIEF FROM INCOME TAX

CHAPTER II

RELIEF IN RESPECT OF DISTRIBUTIONS BY TRUST COMPANIES

Claims

Introductory

16.—(1) A claim made by a trust company in accordance with this Chapter shall be made to the Board in writing, and shall be in such form and contain such particulars as the Board may require or authorise.

(2) A claim shall be either an interim claim or an annual claim.

(3) A claim shall contain a declaration by the trust company that it has continued to satisfy the conditions for approval for the purposes of section 842AA since the date on which approval for the purposes of section 842AA was given or, if later, since the date it last delivered a return under regulation 22.

(4) The Board shall not be under an obligation to make a payment to a trust company earlier than the end of the month following that in which the claim was received.

Interim claims

17.—(1) An interim claim may be made for a period which—

(a) consists of one month or a number of months (not exceeding six) beginning on the 6th day of a month and ending on the 5th day of the relevant following month, and

(b) does not fall within more than one year.

(2) No interim claim may be made for the month ending 5th July or any subsequent month until the return under regulation 13 due in respect of the preceding year has been duly made and received by the Board.

(3) No interim claim may be made for the month ending 5th October or any subsequent month until the annual claim due in respect of the preceding year has been duly made and received by the Board.

(4) A claim under this regulation may not be based on an estimate but may only be made to claim tax credits in respect of distributions made during the period covered by the claim.

(5) If the Board are satisfied that the trust company may claim the amount specified in a claim under paragraph (4) above in relation to the period for which the claim is made, they shall pay that

amount to the trust company and, if they are not so satisfied, they shall pay any lesser amount which they are satisfied may be claimed.

Annual claims

18.—(1) An annual claim in respect of a year shall be made within six months after the end of that year.

(2) No payment shall be made by the Board under an annual claim which is made more than six years after the end of the year for which it is made.

(3) A claim under this regulation—

- (a) may not be based on an estimate but may only be made to claim tax credits in respect of distributions made during the year, and
- (b) shall bring into account aggregate interim payments made for the year, and for the purposes of this regulation “aggregate interim payments” means the aggregate of payments made (and not repaid) on interim claims.

(4) If the Board are satisfied that the trust company may claim the amount specified in a claim under paragraph (3) above in relation to the year for which the claim is made, they shall pay the amount to the trust company and, if they are not so satisfied, they shall pay any lesser amount which they are satisfied may be claimed.

(5) If the aggregate interim payments shown by an annual claim exceeds the aggregate tax credits which the trust company may claim by virtue of regulation 10(2) in respect of distributions made during the year, the trust company shall repay the amount of the excess to the Board with the claim.

(6) If a trust company fails to make an annual claim within six months following the end of the year, the Board may issue a notice to the trust company showing the aggregate interim payments made to the trust company for the year, and stating that the Board are not satisfied that the amount due to the trust company for that year exceeds the lower amount stated in the notice.

(7) If an annual claim for the year is not delivered to the Board within 14 days after the issue of a notice under paragraph (6) above, the amount of the difference between the aggregate interim payments and the lower amount stated in the notice shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the trust company which has become final and conclusive; and section 88 of the Management Act⁽¹⁾ shall apply from the 6th October following the end of the year.

(8) Where an annual claim has been made and the trust company which made it subsequently discovers that an error or mistake has been made in the claim, the trust company may make a supplementary annual claim within six years after the end of the year for which the annual claim was made.

(9) If the Board so wish, forms required or authorised for annual claims may require a report to be given by a person qualified for appointment as auditor of a company.

Supplementary provisions

19.—(1) Section 42 of the Management Act⁽²⁾ shall not apply to a claim under this Chapter of these Regulations.

(2) No appeal shall lie from the Board’s decision on an interim claim.

(1) Section 88 was amended by section 46(4) of the Finance (No. 2) Act 1975 (c. 45), section 61(4) of the Finance Act 1980 (c. 48), section 86(4) of the Finance (No. 2) Act 1987 (c. 51), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, and sections 159, 160(1), 161 and 179(1)(b)(i) of the Finance Act 1989 (c. 26).

(2) Section 42 was amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 and by section 97 of the Finance Act 1990 (c. 29).

(3) An appeal from the Board's decision on an annual claim may be made to the Special Commissioners; and the appeal shall be made by notice in writing given to the Board before the end of the period of 30 days beginning with the day of receipt of the Board's decision.

(4) No payment or repayment made or other thing done on or in relation to an interim claim or a notice under regulation 18(6) shall prejudice the Board's decision on an annual claim.

(5) On appeal the Special Commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.

(6) All such assessments, payments and repayments shall be made as are necessary to give effect to the Board's decision on an annual claim or to any variation of that decision on appeal.