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STATUTORY INSTRUMENTS

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**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*

*Enduring declarations*

**Requirement as to obtaining of enduring declaration**

**11.** Relief from income tax in respect of a distribution by a trust company shall not be given except where the trust company has obtained an enduring declaration in respect of the shares to which the distribution relates.

**Enduring declaration**

**12.—**(1) An enduring declaration shall be in writing and shall be given to the trust company by an individual beneficially entitled to shares in that trust company.

(2) The enduring declaration shall contain the particulars relating to the individual specified in paragraph (3) below, the particulars relating to the shares in the trust company specified in paragraph (4) below and the declaration by the individual specified in paragraph (5) below.

(3) The particulars relating to the beneficial owner are—

- (a) his full name,
- (b) his permanent address including postcode,
- (c) his date of birth, and
- (d) if he has one, his national insurance number.

(4) The particulars relating to the shares in the trust company are—

- (a) the identity of the shares acquired,
- (b) the date on which those shares were acquired,
- (c) the market value of those shares at the time of their acquisition, and
- (d) the extent to which those shares were acquired in excess of the permitted maximum for the year in which the acquisition was made.

(5) The declaration by the individual is—

- (a) that he is beneficially entitled to the shares in the trust company, and
- (b) that to the best of his knowledge and belief the particulars given in the declaration are correct.

### **Return containing particulars of enduring declarations**

**13.**—(1) A company which is, or has been, a trust company shall deliver to the Board, in respect of the period specified in paragraph (2) below (“the specified period”), and within the time limit specified in paragraph (3) below, a return containing, in respect of each enduring declaration received by the trust company during the specified period, the particulars specified in paragraph (4) below.

(2) The specified period is—

- (a) a year, or
- (b) a period beginning on 6th April and ending on the day on which that company ceased to be approved as a trust company,

whichever is the shorter.

(3) The time limit specified is—

- (a) six months after the end of the year, or
- (b) six months after the day on which the company ceased to be approved as a trust company,

whichever is the shorter.

(4) The particulars specified in respect of each enduring declaration are—

- (a) the full name of the investor,
- (b) his permanent address, including postcode,
- (c) his date of birth,
- (d) if he has one, his national insurance number,
- (e) the acquisition value of the shares to which the enduring declaration relates, and
- (f) the date on which those shares were acquired.

(5) A return under this regulation shall be in such form as the Board may specify or authorise.

### **Requirement for trust company to be satisfied that enduring declaration correct**

**14.** Relief from income tax in respect of a distribution by a trust company shall not be given except where the trust company has no reason to believe, by reference to the information in its possession, that the enduring declaration relating to the shares in the trust company in respect of which the distribution is made is or has become incorrect.

### **Position where trust company ceases to be satisfied that enduring declaration correct**

**15.**—(1) This regulation applies where a trust company has reason to believe, by reference to the information in its possession, that an enduring declaration is or has become incorrect.

(2) The company shall deliver to the Board, within three months of having reason so to believe, a statement containing the particulars specified in paragraph (3) below.

(3) The particulars are—

- (a) a copy of the enduring declaration,
- (b) the reason why the trust company believes that the enduring declaration is or has become incorrect,
- (c) the tax credits claimed by the trust company in respect of distributions made in respect of the shares to which the enduring declaration relates, and
- (d) the amounts equal to the tax credits referred to in sub-paragraph (c) above which have been paid to the person who is entitled to the distribution.

(4) Section 252 shall have effect with the modification specified in paragraph (5) below in relation to any tax credit claimed as mentioned in paragraph (3)(c) above as it has effect in relation to any set-off or payment of tax credit mentioned in subsection (1)(b) of that section which ought not to have been made.

(5) Subsection (1) of section 252 shall be modified so as to apply only where a trust company has been fraudulent, reckless or negligent in claiming tax credits in respect of distributions made in respect of the shares to which the enduring declaration relates.