



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART VII

#### GENERAL PROVISIONS RELATING TO TAXATION OF INCOME OF INDIVIDUALS

#### CHAPTER III

#### [<sup>F1</sup>ENTERPRISE INVESTMENT SCHEME]

##### Textual Amendments

- F1** Pt. 7 Ch. 3 heading substituted (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 2**

##### Modifications etc. (not altering text)

- C1** Pt. 7 Ch. 3 applied (with effect in accordance with Sch. 13 para. 4(4) of the 1995 amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **Sch. 5B para. 6(4)** (as inserted by Finance Act 1995 (c. 4), **Sch. 13 para. 4(3)**)

#### [<sup>F2</sup>289 Eligibility for relief.

(1) For the purposes of this Chapter, an individual is eligible for relief, subject to the following provisions of this Chapter, if—

- (a) eligible shares in a qualifying company for which he has subscribed <sup>F3</sup> . . . are issued to him and, under section 291, he qualifies for relief in respect of those shares,
- [ he subscribed for the shares (other than any of them which are bonus shares) <sup>F4</sup>(aza) wholly in cash,]
- [ at the time when they are issued the shares [<sup>F6</sup>(other than any of them which are bonus shares) are fully paid up,] <sup>F5</sup>(aa)

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- (b) the shares [<sup>F7</sup>(other than any of them which are bonus shares)] are issued in order to raise money for the purpose of a qualifying business activity,
- [<sup>F8</sup>(ba) the requirements of subsection (1A) below are satisfied in relation to the company,]<sup>F9</sup> . . .
- [<sup>F10</sup>]<sup>F11</sup>(c) at least 80 per cent. of the money raised by the issue of—
- (i) the shares, and
  - (ii) all other eligible shares (if any) in the company of the same class which are issued on the same day,
- is employed wholly for the purpose of the activity mentioned in paragraph (b) above not later than the time mentioned in subsection (3) below, and]
- (d) all of the money so raised is employed wholly for that purpose not later than 12 months after that time.]
- [<sup>F12</sup>(1A) The requirements of this subsection are satisfied in relation to the qualifying company if at no time in the relevant period is any of the following, namely—
- (a) the relevant qualifying trade,
  - (b) relevant preparation work (if any), and
  - (c) relevant research and development (if any),
- being carried on by a person other than the qualifying company or a qualifying 90% subsidiary of that company.
- (1B) In a case where relevant preparation work is carried on by the qualifying company or a qualifying 90% subsidiary of that company, there is to be disregarded, for the purpose of determining whether the requirements of subsection (1A) above are satisfied in relation to the qualifying company, the carrying on of the relevant qualifying trade by a company other than—
- (a) the qualifying company, or
  - (b) a subsidiary of that company,
- at any time in the relevant period before the qualifying company or any qualifying 90% subsidiary of that company carries on that trade.
- (1C) The requirements of subsection (1A) above are not to be regarded as failing to be satisfied in relation to the qualifying company if—
- (a) by reason only of anything done as a consequence of the qualifying company or any other company being in administration or receivership, or
  - (b) by reason only of the qualifying company or any other company being wound up or dissolved without winding up,
- the relevant qualifying trade ceases to be carried on in the relevant period by the qualifying company or any qualifying 90% subsidiary of that company and is subsequently carried on in that period by a person who is not at any time in the period of restriction connected with the qualifying company.
- (1D) Subsection (1C) above applies only if (as the case may be)—
- (a) the entry into administration or receivership and everything done as a consequence of the company concerned being in administration or receivership, or
  - (b) the winding up or dissolution,
- is for bona fide commercial reasons and is not part of a scheme or arrangement the main purpose of which or one of the main purposes of which is the avoidance of tax.
- (1E) In this section—

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“relevant preparation work” means preparations falling within subsection (2)(a)(ii) below which are the subject of the qualifying business activity mentioned in subsection (1) above,

“the relevant qualifying trade” means the qualifying trade which is the subject of that qualifying business activity,

“relevant research and development” means—

- (a) research and development falling within subsection (2)(b) below which is the subject of that qualifying business activity, and
- (b) any other preparations for the carrying on of the qualifying trade which is the subject of that activity.]

(2) In this Chapter “qualifying business activity”, in relation to a company, means—

- (a) the company or any [<sup>F13</sup>qualifying 90% subsidiary of that company]—
  - (i) carrying on a qualifying trade which, on the date the shares are issued, [<sup>F14</sup>the company or any such subsidiary] is carrying on, or
  - (ii) [<sup>F15</sup>preparing to carry on, or carrying on,] a qualifying trade which, on that date, [<sup>F16</sup>is intended to be carried] on wholly or mainly in the United Kingdom [<sup>F17</sup>by the company or any such subsidiary and which is begun to be carried on by the company or any such subsidiary] within two years after that date,

but only if, at any time in the relevant period when the qualifying [<sup>F18</sup>trade is so] carried on, it is carried on wholly or mainly in the United Kingdom, [<sup>F19</sup>or]

- (b) the company or any [<sup>F20</sup>qualifying 90% subsidiary of that company] carrying on research and development—
  - (i) which, on the date the shares are issued, [<sup>F21</sup>the company or any such subsidiary is carrying on or which the company or any such subsidiary] begins to carry on immediately afterwards, and
  - (ii) from which it is intended that a qualifying trade which the company or any [<sup>F22</sup>such subsidiary] will carry on wholly or mainly in the United Kingdom will be derived,

but only if, at any time in the relevant period when the research and development or the qualifying trade derived from it is carried on, it is carried on wholly or mainly in the United Kingdom.<sup>F23</sup> . . .

- (c) <sup>F24</sup> . . . . .

(3) The time referred to in subsection (1)(c) above is—

- (a) the end of the period of twelve months beginning with the issue of the eligible shares, or
- (b) in the case of money raised only for the purpose referred to in subsection (2)(a) above, the end of that period or, if later, the end of the period of twelve months beginning when the company or [<sup>F25</sup>a qualifying 90% subsidiary of that company] begins to carry on the qualifying trade,

and for the purposes of this Chapter, the [<sup>F26</sup>conditions in subsection (1)(c) and (d) above do] not fail to be satisfied by reason only of the fact that an amount of money which is not significant is employed for another purpose.

[ In determining—

- <sup>F27</sup>(3A) (a) for the purposes of subsection (2)(a)(ii) or (3)(b) above when a qualifying trade is begun to be carried on by a qualifying 90% subsidiary of a company, or

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- (b) for the purposes of subsection (2)(b)(i) above when research and development is begun to be carried on by such a subsidiary of a company, there shall be disregarded any carrying on of the trade or, as the case may be, the research and development by it before it became such a subsidiary of the company.]
- (4) <sup>F28</sup> .....
- (5) <sup>F28</sup> .....
- (6) An individual is not eligible for relief in respect of any shares unless the shares are subscribed [<sup>F29</sup>for], and issued, for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (7) In this Chapter “eligible shares” means new ordinary shares which, throughout [<sup>F30</sup>the period—
- (a) beginning with the issue of the shares, and
- (b) ending immediately before the termination date relating to those shares,]
- carry no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future <sup>F31</sup>... right to be redeemed.
- (8) Section 312(1A)(b) applies to determine the relevant period for the purposes of this section.
- [ Shares are not fully paid up for the purposes of subsection (1)(aa) above if there is <sup>F32</sup>(8A) any undertaking to pay cash to any person at a future date in respect of the acquisition of the shares.]
- [<sup>F33</sup>(9) For the purposes of this Chapter, a company (“the relevant subsidiary”) is a qualifying 90% subsidiary of another company (“the holding company”) if the following conditions are met—
- (a) the holding company possesses not less than 90% of the issued share capital of, and not less than 90% of the voting power in, the relevant subsidiary;
- (b) the holding company would—
- (i) in the event of a winding up of the relevant subsidiary, or
- (ii) in any other circumstances,
- be beneficially entitled to receive not less than 90% of the assets of the relevant subsidiary which would then be available for distribution to the equity holders of the subsidiary;
- (c) the holding company is beneficially entitled to not less than 90% of any profits of the relevant subsidiary which are available for distribution to the equity holders of the subsidiary;
- (d) no person other than the holding company has control of the relevant subsidiary within the meaning of section 840; and
- (e) no arrangements are in existence by virtue of which any of the conditions in paragraphs (a) to (d) above would cease to be met.
- (10) Subsections (3), (3A) and (4) of section 308 apply in relation to the conditions in subsection (9) above as they apply in relation to the conditions in subsection (2) of that section, but with the following modifications.
- (11) Those modifications are—

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- (a) that references in subsections (3), (3A) and (4) of that section to the subsidiary are to be read as references to the relevant subsidiary, and
  - (b) that subsection (4) of that section is to be read as if the words the holding company were substituted for the words “the qualifying company or (as the case may be) by another subsidiary”.
- (12) For the purposes of subsection (9) above—
- (a) the persons who are equity holders of the relevant subsidiary, and
  - (b) the percentage of the assets of the relevant subsidiary to which an equity holder would be entitled,
- are to be determined in accordance with paragraphs 1 and 3 of Schedule 18.
- (13) But in making that determination—
- (a) references in paragraph 3 of Schedule 18 to the first company are to be read as references to an equity holder, and
  - (b) references in that paragraph to a winding up are to be read as including references to any other circumstances in which assets of the relevant subsidiary are available for distribution to its equity holders.]]

#### Textual Amendments

- F2** Ss. 289-289B substituted for s. 289 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 2**
- F3** Words in s. 289(1)(a) repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 1(2)(a), **Sch. 42 Pt. 2(13)**, Note 6
- F4** S. 289(1)(aza) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(2)(b)**
- F5** S. 289(1)(aa) inserted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 1(1)(b)**
- F6** Words in s. 289(1)(aa) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(2)(c)**
- F7** Words in s. 289(1)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(2)(d)**
- F8** S. 289(1)(ba) inserted (with effect in accordance with Sch. 8 para. 1 of the amending Act) by Finance Act 1997 (c. 16), **Sch. 8 para. 2(1)**
- F9** Word at the end of s. 289(1)(ba) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(3)**, Note 6
- F10** S. 289(1)(c)(d) substituted for s. 289(1)(c) (with effect in accordance with Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 6(a)**
- F11** S. 289(1)(c) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(2)(e)**
- F12** S. 289(1A)-(1E) substituted for s. 289(1A)-(1D) (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para 1(3)**
- F13** Words in s. 289(2)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(a)**
- F14** Words in s. 289(2)(a)(i) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(b)**
- F15** Words in s. 289(2)(a)(ii) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(c)(i)**
- F16** Words in s. 289(2)(a)(ii) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(c)(ii)**

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- F17** Words in s. 289(2)(a)(ii) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(c)(iii)**
- F18** Words in s. 289(2)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(d)**
- F19** Word at the end of s. 289(2)(a) inserted (with effect in accordance with Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 2(b)(i)**
- F20** Words in s. 289(2)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(e)(i)**
- F21** Words in s. 289(2)(b)(i) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(e)(ii)**
- F22** Words in s. 289(2)(b)(ii) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(4)(e)(iii)**
- F23** Word preceding s. 289(2)(c) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(3)**, Note 6
- F24** S. 289(2)(c) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 2(b)(ii), **Sch. 33 Pt. 2(3)**, Note 6
- F25** Words in s. 289(3)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(5)**
- F26** Words in s. 289(3) substituted (with effect in accordance with Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 6(b)**
- F27** S. 289(3A) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(6)**
- F28** S. 289(4)(5) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 2(c), **Sch. 33 Pt. 2(3)**, Note 6
- F29** Word in s. 289(6) inserted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 1(3)**
- F30** Words in s. 289(7) substituted (with effect in accordance with Sch. 17 para. 8 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 1**
- F31** Word in s. 289(7) repealed (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 13 para. 1(4), **Sch. 27 Pt. 3(14)**, Note 4
- F32** S. 289(8A) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(7)**
- F33** S. 289(9)-(13) substituted for s. 289(9) (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 1(8)**

**Modifications etc. (not altering text)**

- C2** S. 289 amended (as it has effect in relation to shares issued before 1st January 1994) by Finance Act 1995 (c. 4), **s. 68(1)(2)**

**[<sup>F34</sup>289A Form of relief.**

- (1) Where an individual eligible for relief in respect of any amount subscribed for eligible shares makes a claim, then, subject to the following provisions of this Chapter, the amount of his liability for the year of assessment in which the shares were issued (“the current year”) to income tax on his total income shall be the following amount.
- (2) That amount is the amount to which he would be so liable apart from this section less whichever is the smaller of—
  - (a) an amount equal to tax at the lower rate for the current year on the amount or, as the case may be, the aggregate of the amounts subscribed for eligible shares issued in that year in respect of which he is eligible for relief, and
  - (b) the amount which reduces his liability to nil.

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- (3) Subject to subsection (4) below, if in the case of any issue of relevant shares, that is, shares—
- (a) which are issued before 6th October in the current year, and
  - (b) in respect of the amount subscribed for which the individual is eligible for relief,
- the individual so requests in his claim, subsection (1) above shall apply as if, in respect of such part of that issue as may be specified in his claim, the shares had been issued in the preceding year of assessment; and his liability to income tax for both years of assessment shall be determined accordingly.
- (4) Not more than half of the relevant shares comprised in any issue may be treated by virtue of subsection (3) above as issued in the previous year; and the number of relevant shares (comprised in any issues) so treated as issued in a particular year shall not be such that the total amount subscribed for them exceeds [<sup>F35</sup>£50,000].
- (5) In determining for the purposes of subsection (2) above the amount of income tax to which a person would be liable apart from this section, no account shall be taken of—
- (a) any income tax reduction under Chapter I of Part VII of this Act or under section 347B,
  - (b) any income tax reduction under section 353(1A),
  - (c) any income tax reduction under section 54(3A) of the Finance Act 1989,
  - [<sup>F36</sup>(ca) any income tax reduction under paragraph 19(2) of Schedule 16 to the Finance Act 2002 (community investment tax relief),]
  - (d) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1), or
  - (e) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.
- (6) [<sup>F37</sup>A claim for relief in respect of eligible shares issued by a company shall not be allowed unless subsection (7) below is complied with in relation to the issue of shares in question] but, where it is complied with, the relief may be given at any time when it appears that the conditions for the relief may be satisfied.
- (7) This subsection is complied with if—
- (a) in [<sup>F38</sup>a case where the money raised by an issue of eligible shares is raised wholly] for the purpose of a qualifying business activity falling within paragraph (a) of section 289(2), the [<sup>F39</sup>trade concerned has been carried on for four months by no person other than the qualifying company or a qualifying 90% subsidiary of that company], [<sup>F40</sup>and]
  - (b) in [<sup>F41</sup>a case where the money raised by an issue of eligible shares is raised wholly or partly] for the purpose of a qualifying business activity falling within paragraph (b) of that subsection [<sup>F42</sup>the research and development concerned has been carried on for four months by no person other than the qualifying company or a qualifying 90% subsidiary of that company]. <sup>F43</sup> . . .
  - (c) <sup>F44</sup> . . . . .
- (8) Where—
- [<sup>F45</sup>(a) by reason only of the qualifying company or any other company being wound up or dissolved without winding up—

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- (i) the trade concerned is carried on as mentioned in subsection (7)(a) above, or
- (ii) the research and development concerned is carried on as mentioned in subsection (7)(b) above,
- for a period shorter than four months, and]
- (b) <sup>F46</sup> . . . the winding up or dissolution [<sup>F47</sup>is for] bona fide commercial reasons and [<sup>F48</sup>is not] part of a scheme or arrangement the main purpose or one of the main purposes of [<sup>F49</sup>which is] the avoidance of tax,
- subsection (7)(a) [<sup>F50</sup>or, as the case may be, (7)(b)] above shall have effect as if it referred to that shorter period.
- [<sup>F52</sup> Where, by reason only of anything done as a consequence of the qualifying <sup>F51</sup>(8A) company or any other company being in administration or receivership—
- (a) the trade concerned is carried on as mentioned in subsection (7)(a) above for a period shorter than four months, or
- (b) the research and development concerned is carried on as mentioned in subsection (7)(b) above for a period shorter than four months,
- subsection (7)(a) or, as the case may be, (7)(b) above shall have effect as if it referred to that shorter period.]
- This applies only if—
- (a) [<sup>F53</sup>the entry into administration or receivership], and
- (b) everything done as a consequence of the company [<sup>F54</sup>concerned] being in administration or receivership,
- is for bona fide commercial reasons and is not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.]
- (9) <sup>F55</sup> . . . . . ]

#### Textual Amendments

- F34** Ss. 289-289B substituted for s. 289 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 2**
- F35** Words in s. 289A(4) substituted (with effect in accordance with Sch. 14 para. 5(2) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 14 para. 5(1)**
- F36** S. 289A(5)(ca) inserted (with effect in accordance with s. 57(4)(b) of the amending Act) by Finance Act 2002 (c. 23), s. 57(3), **Sch. 17 para. 2**; S.I. 2003/88, **art. 2**
- F37** Words in s. 289A(6) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(2)**
- F38** Words in s. 289A(7)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(3)(a)(i)**
- F39** Words in s. 289A(7)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(3)(a)(ii)**
- F40** Word after s. 289A(7)(a) inserted (with effect in accordance with Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 3(a)**
- F41** Words in s. 289A(7)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(3)(b)(i)**
- F42** Words in s. 289A(7)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(3)(b)(ii)**
- F43** Word preceding s. 289A(7)(c) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(3)**, Note 6



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- F44** S. 289A(7)(c) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 3(b), **Sch. 33 Pt. 2(3)**, Note 6
- F45** S. 289A(8)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(a)**
- F46** Words in s. 289A(8)(b) repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 2(4)(b)(i), **Sch. 42 Pt. 2(13)**, Note 6
- F47** Words in s. 289A(8)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(b)(ii)**
- F48** Words in s. 289A(8)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(b)(iii)**
- F49** Words in s. 289A(8)(b) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(b)(iv)**
- F50** Words in s. 289A(8) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(4)(c)**
- F51** S. 289A(8A) inserted (with effect in accordance with Sch. 17 para. 12 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 9(3)**
- F52** Words in s. 289A(8A) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(5)(a)**
- F53** Words in s. 289A(8A)(a) substituted (15.9.2003) by The Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), **Sch. para. 16** (with art. 6)
- F54** Word in s. 289A(8A)(b) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 2(5)(b)**
- F55** S. 289A(9) repealed (with effect in accordance with Sch. 15 para. 9(2) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 9(1), **Sch. 33 Pt. 2(3)**, Note 1

#### **[<sup>F56</sup>289B Attribution of relief to shares.**

- (1) References in this Chapter, in relation to any individual, to the relief attributable to any shares or issue of shares shall be read, subject to the provisions of this Chapter providing for the reduction or withdrawal of relief, as references to any reduction made in the individual's liability to income tax which is attributed to those shares or that issue in accordance with this section.
- (2) Where an individual's liability to income tax is reduced in any year of assessment ("the current year") under section 289A, then—
  - (a) where the reduction is given by reason of an issue of shares made (or treated as made) in the current year, the amount of the reduction shall be attributed to that issue, and
  - (b) where the reduction is given by reason of two or more issues of shares made (or treated as made) in the current year, the reduction—
    - (i) shall be apportioned between those issues in the same proportions as the amounts subscribed by the individual for each issue, and
    - (ii) shall be attributed to those issues accordingly.
- (3) Where under this section an amount of any reduction of income tax is attributed to an issue of shares ("the original issue") in a company to an individual—
  - (a) a proportionate part of that amount shall be attributed to each share comprised in the original issue, and
  - (b) if any [<sup>F57</sup>corresponding bonus shares in that company] are issued to him at any subsequent time—
    - (i) a proportionate part of the total amount attributed immediately before that time to shares comprised in the original issue shall be attributed

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to each of the shares in the holding comprising those shares and the bonus shares, and

(ii) this Chapter shall apply as if the original holding had comprised all those shares.

[ In subsection (3) above “corresponding bonus shares” means bonus shares which—  
<sup>F58</sup>(3A) (a) are issued in respect of the shares comprised in the original issue; and  
 (b) are of the same class, and carry the same rights, as those shares.]

[<sup>F59</sup>(4) Subject to subsection (5) below, in this Chapter references (however expressed) to an issue of eligible shares in any company to an individual are references to any eligible shares in the company that are of the same class and are issued to him on the [<sup>F60</sup>same day, but this subsection does not apply in relation to section 289A(6) and (7)].]

(5) Where section 289A(1) applies in the case of any issue of shares as if part of the issue had been issued in a previous year, this section and [<sup>F61</sup>sections 299(4) and 306(1)] shall have effect as if that part and the remainder were separate issues of shares (and that part had been issued on a day in the previous year).

(6) Where, at a time when any relief is attributable to, or to any part of, any issue of shares, the relief falls to be withdrawn or reduced under this Chapter—  
 (a) where it falls to be withdrawn, the relief attributable to each of the shares in question shall be reduced to nil, and  
 (b) where it falls to be reduced by any amount, the relief attributable to each of the shares in question shall be reduced by a proportionate part of that amount.]

#### Textual Amendments

- F56** Ss. 289-289B substituted for s. 289 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 2**
- F57** Words in s. 289B(3)(b) substituted (with effect in accordance with Sch. 13 para. 3(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 3(1)**
- F58** S. 289B(3A) inserted (with effect in accordance with Sch. 13 para. 3(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 3(2)**
- F59** S. 289B(4) substituted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 3(3)**
- F60** Words in s. 289B(4) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 3**
- F61** Words in s. 289B(5) substituted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 3(4)**

## 290 Minimum and maximum subscriptions.

<sup>M1</sup>(1) Subject to section 311(3), the relief shall not be given in respect of any amount subscribed by an individual for eligible shares issued to him by any company in any year of assessment unless the amount or total amount subscribed by him for the eligible shares issued to him by the company in that year is £500 or more.

[<sup>F62</sup>(2) An individual shall not be eligible for relief in any year of assessment in respect of any amount subscribed for eligible shares exceeding [<sup>F63</sup>£400,000] (whether the shares are issued in that or a subsequent year).]

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#### Textual Amendments

- F62** S. 290(2) substituted (with effect as mentioned in s. 137(2), Sch. 15 para. 3(2)-(4) of the amending Act) by Finance Act 1994 (c. 9), Sch. 15 para. 3(1)
- F63** Words in s. 290(2) substituted (with effect in accordance with Sch. 14 para. 6(2) of the amending Act) by Finance Act 2006 (c. 25), Sch. 14 para. 6(1)

#### Modifications etc. (not altering text)

- C3** See 1988(F) s.35 and Sch.3 para.12(3)(b) for application to husband and wife where amounts are subscribed in 1990-91.

#### Marginal Citations

- M1** Source-1983 Sch.5 3; 1987 s.42(3)

### [<sup>F64F65</sup>290A Restriction of relief where amounts raised exceed permitted maximum.

.....]

#### Textual Amendments

- F64** S. 290A inserted (retrospectively) by Finance Act 1988 (c. 39) s. 51(1)(b)
- F65** S. 290A repealed (with effect in accordance with s. 74(3), Sch. 27 Pt. 3(14) Note 4 of the repealing Act) by Finance Act 1998 (c. 36), Sch. 13 para. 5, Sch. 27 Pt. 3(14)

### [<sup>F66</sup>291 Individuals qualifying for relief.

- (1) An individual qualifies for relief in respect of eligible shares in a company (referred to in this section and sections 291A and 291B as the “issuing company”) if—
- (a) he subscribes for the shares on his own behalf, and
  - [<sup>F67</sup>(b) subject to section 291A(4), he is not at any time in the period—
    - (i) beginning two years before the issue of the shares, and
    - (ii) ending immediately before the termination date relating to those shares,connected with the company (whether before or after its incorporation).]
- (2) For the purposes of this section <sup>F68</sup> . . . , an individual is connected with the issuing company if he, or an associate of his, is—
- (a) an employee of, or of a partner of, the issuing company or any subsidiary,
  - (b) a partner of the issuing company or any subsidiary, or
  - (c) subject to section 291A, a director of, or of a company which is a partner of, the issuing company or any subsidiary,
- or if he, or an associate of his, is so connected by virtue of section 291B.
- [<sup>F69</sup>(3) In subsection (2) above “subsidiary”, in relation to the issuing company, means a company which at any time in the relevant period is a 51 per cent subsidiary of the issuing company, whether or not it is such a subsidiary while the individual concerned or his associate is such an employee, partner or director as is mentioned in that subsection.]

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- (4) For the purposes of subsections (2) and (3) above and section 291A, in the case of a person who is both a director and an employee of a company—
- (a) references (however expressed) to him in his capacity as a director of the company include him in his capacity as an employee of the company, but
  - (b) (apart from that) he is not to be treated as an employee of the company.
- (5) Section 312(1A)(a) applies to determine the relevant period for the purposes of this section and sections 291A and 291B.

[<sup>F72</sup> .....]]  
<sup>F70</sup>[<sup>F71</sup>(6)]

#### Textual Amendments

- F66** Ss. 291-291B substituted for s. 291 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 5**
- F67** S. 291(1)(b) substituted (with effect in accordance with Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 10**
- F68** Words in s. 291(2) repealed (with effect in accordance with s. 74(3), Sch. 27 Pt. 3(14) Note 4 of the repealing Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 6(2)**, **Sch. 27 Pt. 3(14)**
- F69** S. 291(3) substituted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 6(3)**
- F70** S. 291(6) inserted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 6(4)**
- F71** S. 291(6) substituted (with effect in accordance with Sch. 17 para. 8 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 2(b)**
- F72** S. 291(6) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(3)**, Note 6

#### [<sup>F73</sup>291A Connected persons: directors.

- (1) An individual is not connected with the issuing company by reason only that he, or an associate of his, is a director of that or another company unless he or his associate (or a partnership of which he or his associate is a member)—
- (a) receives a payment from the issuing company or a related person during [<sup>F74</sup>the period mentioned in section 291(1)(b)], or
  - (b) is entitled to receive such a payment in respect of that period or any part of it.
- (2) In this section—
- (a) “related person”, in relation to the issuing company, means—
    - (i) any company of which the individual or his associate is a director and which is a subsidiary or a partner of the issuing company or of a subsidiary, and
    - (ii) any person connected with the issuing company or with a company falling within sub-paragraph (i) above, and
  - (b) any reference to a payment to an individual includes a payment made to him indirectly or to his order or for his benefit.
- (3) For the purposes of subsection (1) above there shall be disregarded—

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- (a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by him or his associate in the performance of his duties as a director,
  - (b) any interest which represents no more than a reasonable commercial return on money lent to the issuing company or a related person,
  - (c) any dividend or other distribution which does not exceed a normal return on the investment,
  - (d) any payment for the supply of goods which does not exceed their market value,
  - (e) any payment of rent for any property occupied by the issuing company or a related person which does not exceed a reasonable and commercial rent for the property, and
  - (f) any reasonable and necessary remuneration which —
    - (i) is paid for services rendered to the issuing company or related person in the course of a trade or profession [<sup>F75</sup>carried on wholly or partly in the United Kingdom ](not being secretarial or managerial services or services of a kind provided by the person to whom they are rendered), and
    - (ii) is taken into account[<sup>F76</sup> in calculating for tax purposes the profits of that trade or profession].
- (4) An individual (“the subscriber”) who subscribes for eligible shares (“the relevant shares”) may qualify for the relief notwithstanding his connection with the company at any time in the relevant period if—
- (a) he is so connected by reason only of his, or his associate’s, being a director of, or of a company which is a partner of, the issuing company or a subsidiary in receipt of, or entitled to receive, remuneration as such, and
  - (b) the following conditions are satisfied;
- and in this subsection and subsection (5) below “remuneration” includes any benefit or facility.
- (5) The conditions are that—
- (a) in relation to the director (whether he is the subscriber or his associate), his remuneration, or the remuneration to which he is entitled, (leaving out of account any reasonable and necessary remuneration falling within subsection (3)(f) above) consists only of remuneration which is reasonable remuneration for services rendered to the company of which he is a director in his capacity as such,
  - (b) the subscriber was issued with eligible shares (whether the relevant shares or a previous issue of eligible shares) at a time when he had never been—
    - (i) connected with the issuing company, or
    - [<sup>F77</sup>(ii) involved in carrying on (whether on his own account or as a partner, director or employee) the whole or any part of the trade carried on by the issuing company or a subsidiary, and]
  - (c) where the issue of the relevant shares did not satisfy paragraph (b) above, they were not issued after the end of the period—
    - [<sup>F78</sup>(i)] beginning with the date of the latest issue of eligible shares which satisfied that paragraph, [<sup>F79</sup>and
    - (ii) ending immediately before the termination date relating to those eligible shares,]

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and in paragraph (b) above “trade” includes any business, profession or vocation  
 F80 . . . . .

- (6) In this section “subsidiary”, in relation to the issuing company, means a 51 per cent. subsidiary of the issuing company.]

#### **Textual Amendments**

- F73** Ss. 291-291B substituted for s. 291 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 5**
- F74** Words in s. 291A(1)(a) substituted (with effect in accordance with Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 11**
- F75** Words in s. 291A(3)(f)(i) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 126(a)** (with Sch. 2)
- F76** Words in s. 291A(3)(f)(ii) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 126(b)** (with Sch. 2)
- F77** S. 291A(5)(b)(ii) substituted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 7(2)(a)**
- F78** Word in s. 291A(5)(c) substituted (with effect in accordance with Sch. 17 para. 8 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 3(3)(a)**
- F79** S. 291A(5)(c)(ii) and preceding word inserted (with effect in accordance with Sch. 17 para. 8 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 3(3)(b)**
- F80** Words in s. 291A(5) repealed (with effect in accordance with s. 74(3), Sch. 27 Pt. 3(14) Note 4 of the repealing Act) by Finance Act 1998 (c. 36), Sch. 13 para. 7(2)(b), **Sch. 27 Pt. 3(14)**

#### **[<sup>F81</sup>291B Connected persons: persons interested in capital etc. of company.**

- (1) An individual is connected with the issuing company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent. of—
- (a) the issued ordinary share capital of the company or any subsidiary,
  - (b) the loan capital and issued share capital of the company or any subsidiary, or
  - (c) the voting power in the company or any subsidiary.
- (2) An individual is connected with the issuing company if he directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or any subsidiary or in any other circumstances, entitle him to receive more than 30 per cent. of the assets of the company or subsidiary (the “company in question”) which would then be available for distribution to equity holders of the company in question.
- (3) For the purposes of subsection (2) above—
- (a) the persons who are equity holders of the company in question, and
  - (b) the percentage of the assets of the company in question to which the individual would be entitled,
- shall be determined in accordance with paragraphs 1 and 3 of Schedule 18, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the company in question are available for distribution to its equity holders.
- (4) An individual is connected with a company if he has control of it or of any subsidiary.



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- (5) Where an individual subscribes for shares in a company with which (apart from this subsection) he is not connected, he shall nevertheless be treated as connected with it if he subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another company with which (assuming it to be an issuing company) that or any other individual who is a party to the arrangement is connected.
- <sup>F82</sup> [ An individual is not connected with a company by reason only of the fact that one (5A) or more shares in the company are held by him, or by an associate of his, at a time when the company—
- (a) has not issued any shares other than subscriber shares; and
  - (b) has not begun to carry on, or to make preparations for carrying on, any trade or business.]
- <sup>F83</sup> (6) In this section “subsidiary”, in relation to the issuing company, means a company which at any time in the relevant period is a 51 per cent. subsidiary of the issuing company, whether or not it is such a subsidiary while the individual concerned has, or is entitled to acquire, such capital, voting power, rights or control as are mentioned in this section.]
- (7) For the purposes of this section the loan capital of a company shall be treated as including any debt incurred by the company—
- (a) for any money borrowed or capital assets acquired by the company,
  - (b) for any right to receive income created in favour of the company, or
  - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium on it).
- (8) For the purposes of this section an individual shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire, and there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (9) In determining for the purposes of this section whether an individual is connected with a company, no debt incurred by the company or any subsidiary by overdrawing an account with a person carrying on a business of banking shall be treated as loan capital of the company or subsidiary if the debt arose in the ordinary course of that business.
- (10) Section 840 applies for the purposes of this section.]

#### Textual Amendments

- F81** Ss. 291-291B substituted for s. 291 (with effect in accordance with s. 137(2) of the amending Act) by Finance Act 1994 (c. 9), s. 137(1), **Sch. 15 para. 5**
- F82** S. 291B(5A) inserted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 8(1)**
- F83** S. 291B(6) substituted (with effect in accordance with s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 8(2)**

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## 292 Parallel trades. <sup>F84</sup>

<sup>M2</sup>(1) [<sup>F85</sup>An individual is not eligible for relief in respect of any shares in a company if, at the date mentioned in subsection (2) below]—

- (a) he is one of a group of persons—
  - (i) who control the company; or
  - (ii) to whom belongs an interest amounting in the aggregate to more than a half share in the trade carried on by the company;
- (b) he is also an individual, or one of a group of persons—
  - (i) controlling another company; or
  - (ii) to whom belongs an interest amounting in the aggregate to more than a half share in another trade; and
- (c) the trade carried on by the company, or a substantial part of it—
  - (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities; and
  - (ii) serves substantially the same or similar outlets or markets;
 as the other trade or (as the case may be) the trade carried on by the other company.

(2) The date mentioned in subsection (1) above is—

- (a) the date on which the shares are issued; or
- (b) if later, the date on which the company begins to carry on the trade.

(3) For the purposes of subsection (1) above—

- (a) the persons to whom a trade belongs, and (where a trade belongs to two or more persons) their respective shares in that trade, shall be determined in accordance with section 344(1)(a) and (b), (2) and (3); and
- (b) any interest, rights or powers of a person who is an associate of another person shall be treated as those of that other person.

(4) For the purposes of this section—

- (a) references to a company's trade include references to the trade of [<sup>F86</sup>any company which is a 51 per cent. subsidiary of that company on the date referred to in subsection (2) above]; and
- (b) “trade” in the expressions “another trade”, “other trade” and “trade carried on by the other company” includes any business, profession or vocation.

[<sup>F87</sup>(5) This section shall not apply where the shares mentioned in subsection (1) above are issued on or after 29th November 1994.]

### Textual Amendments

- F84** S.292 omitted by 1988(F) Sch.4 para.5 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.
- F85** Words in s. 292(1) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 6(a)**
- F86** Words in s. 292(4)(a) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 6(b)**
- F87** S. 292(5) inserted (1.5.1995) by Finance Act 1995 c. 4, **s. 66(2)**



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### Marginal Citations

M2 Source-1983 Sch.5 10A; 1986 Sch.9 12

## 293 Qualifying companies.

[<sup>F88</sup>(1) Subject to section 294, a company is a qualifying company (whether it is resident in the United Kingdom or elsewhere) if it complies with the requirements of this section.

[<sup>F89</sup>(1A) At the beginning of the relevant period, the company must be—

- (a) an unquoted company, and
- (b) a company to which subsection (1B) below does not apply.

(1B) This subsection applies to a company—

- (a) if arrangements are in existence for it to cease to be an unquoted company; or
- (b) if—
  - (i) arrangements are in existence for it to become a subsidiary of another company (“the new company”) by virtue of an exchange of shares, or shares and securities, in relation to which section 304A (certain exchanges resulting in acquisition of share capital by new company) applies, and
  - (ii) arrangements have been made with a view to the new company ceasing to be an unquoted company.]

(2) The company must, throughout the relevant period, <sup>F90</sup>. . . be—

- (a) a company which exists wholly for the purpose of carrying on one or more qualifying trades or which so exists apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company’s activities, or

[<sup>F91</sup>(aa) the parent company of a trading group.]

(3) In this section “qualifying subsidiary”, in relation to a company, means a subsidiary of a kind which that company may hold by virtue of section 308.]

[<sup>F92</sup>(3A) For the purposes of this section a company is the parent company of a trading group if—

- (a) it has one or more subsidiaries;
- (b) each of its subsidiaries is a qualifying subsidiary of the company; and
- (c) the requirements of subsection (3B) below are fulfilled by what would be the business of the company and its subsidiaries if all the activities, taken together, of the company and its subsidiaries were regarded as one business.

(3B) A business fulfils the requirements of this subsection if neither the business nor a substantial part of it consists in, or in either of, the following, that is to say—

- (a) activities falling within section 297(2)(a) to (g) but not within subsection (3C) below; and
- (b) activities [<sup>F93</sup>(other than research and development <sup>F94</sup>. . .)] carried on otherwise than in the course of a trade.

(3C) The activities falling within this subsection are—

- (a) the receiving of royalties or licence fees in circumstances where [<sup>F95</sup>the requirement mentioned in section 297(4) is] satisfied in relation to the company receiving them;

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- (b) the letting of ships, other than [<sup>F96</sup>offshore installations] or pleasure craft, on charter in circumstances where the requirements mentioned in paragraphs (a) to (d) of section 297(6) are satisfied in relation to the company so letting them.
- (3D) Activities of a company or of any of its subsidiaries shall be disregarded for the purposes of subsections (3A) to (3C) above to the extent that they consist in—
- (a) the holding of shares in or securities of, or the making of loans to, one or more of the company’s subsidiaries; or
- (b) the holding and managing of property used by the company or any of its subsidiaries for the purposes of—
- (i) research and development from which it is intended that a qualifying trade to be carried on by the company or any of its subsidiaries will be derived; or
- (ii) one or more qualifying trades so carried on.
- (3E) Activities of a subsidiary of a company shall also be disregarded for the purposes of subsections (3A) to (3C) above to the extent that they consist in—
- (a) the making of loans to the company; or
- (b) in the case of a mainly trading subsidiary, activities carried on otherwise than in pursuance of its main purpose.
- (3F) For the purposes of subsection (3E) above—
- (a) “mainly trading subsidiary” means a subsidiary which, apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of its activities, exists wholly for the purpose of carrying on one or more qualifying trades; and
- (b) that purpose shall be taken to be its main purpose.]
- <sup>F97</sup>(4) <sup>F98</sup> .....
- [<sup>F99</sup>(4A) A company <sup>F100</sup> . . . shall not be regarded as ceasing to comply with subsection (2) above by reason [<sup>F101</sup>only] of anything done as a consequence of [<sup>F102</sup>the company, or any of its subsidiaries,] being in administration or receivership.
- This subsection has effect subject to subsection (4B) and subsection (5) below.
- (4B) Subsection (4A) applies only if—
- (a) [<sup>F103</sup>the entry into administration or receivership], and
- (b) everything done as a consequence of the company [<sup>F104</sup>concerned] being in administration or receivership,
- is for bona fide commercial reasons and is not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.]
- (5) <sup>M3</sup>Without prejudice to the generality of subsection (2) above, but subject to subsection (6) below, a company ceases to comply with that subsection if before the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company [<sup>F105</sup>or any of its subsidiaries] (or, in the case of a winding up otherwise than under the <sup>M4</sup>Insolvency Act 1986 or the <sup>M5</sup>Companies (Northern Ireland) Order 1986, any other act is done for the like purpose) or the company [<sup>F106</sup>or any of its subsidiaries] is dissolved without winding up.
- (6) A company shall not be regarded as ceasing to comply with subsection (2) above if it does so [<sup>F107</sup>by reason only of the company or any of its subsidiaries] being wound up or dissolved without winding up and—

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- (a) <sup>F108</sup> . . . the winding up or dissolution is for bona fide commercial reasons <sup>F109</sup> and is not] part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax; <sup>F110</sup> . . .
  - (b) <sup>F110</sup> . . . . .
- [<sup>F111</sup>(6ZA) The company must not at any time in the relevant period have a property managing subsidiary which is not a qualifying 90% subsidiary of the company.
- (6ZB) “Property managing subsidiary” means a subsidiary of the company whose business consists wholly or mainly in the holding or managing of land or any property deriving its value from land.
- (6ZC) In subsection (6ZB) above, “land” and “property deriving its value from land” have the same meaning as in section 776.]
- [<sup>F112</sup>(6A) The value of the relevant assets—
- (a) must not exceed [<sup>F113</sup>£7 million] immediately before the issue of the eligible shares; and
  - (b) must not exceed [<sup>F114</sup>£8 million] immediately afterwards.
- (6B) Subject to subsection (6C) below, the reference in subsection (6A) above to the value of the relevant assets is a reference—
- (a) in relation to a time when the company did not have any qualifying subsidiaries, to the value of the gross assets of the company at that time; and
  - (b) in relation to any other time, to the aggregate value at that time of the gross assets of all the companies in the company’s group.
- (6C) For the purposes of subsection (6B) above assets of any member of the company’s group that consist in rights against, or in shares in or securities of, another member of the group shall be disregarded.
- (6D) In subsections (6B) and (6C) above references, in relation to any time, to the company’s group are references to the company and its qualifying subsidiaries at that time.]
- (7) <sup>F115</sup> . . . . .
- [<sup>F116</sup>[<sup>F117</sup>(8) Subject to section 304A, the company must not at any time in the relevant period—
- (a) control (whether on its own or together with any person connected with it) any company which is not a qualifying subsidiary, or
  - (b) be—
    - (i) a 51% subsidiary of another company, or
    - (ii) under the control of another company (or of another company and any other person connected with that other company), without being a 51% subsidiary of that other company,and no arrangements must be in existence at any time in that period by virtue of which the company could fall within paragraph (a) or (b) above (whether during that period or otherwise).
- (8AA) In subsection (8)(b) above “control” has the meaning given by section 840.]
- (8A) Section 312(1A)(b) applies to determine the relevant period for the purposes of this section and sections 294, 295 and 296.]

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[<sup>F118</sup>(8B) In arriving at the relevant period for the purposes of sections 294 to 296 any time falling on or after 29th November 1994 shall be ignored; and subsection (8A) above shall have effect subject to the preceding provisions of this subsection.]

<sup>F119</sup>(9) <sup>F98</sup> .....

<sup>F119</sup>(10) <sup>F98</sup> .....

<sup>F119</sup>(11) <sup>F98</sup> .....

### Textual Amendments

- F88** S. 293(1)-(3) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 4\(7\)\(a\)](#)
- F89** S. 293(1A)(1B) inserted (with effect in accordance with [Sch. 15 para. 40\(2\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 12\(1\)](#)
- F90** Words in s. 293(2) repealed (with effect in accordance with [Sch. 15 para. 40\(2\)](#) of the repealing Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 12\(2\)](#), [Sch. 33 Pt. 2\(3\)](#), Note 6
- F91** S. 293(2)(aa) substituted for s. 293(2)(b) (with effect as mentioned in [Sch. 8 para. 1](#) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 8 para. 4\(1\)](#)
- F92** S. 293(3A)-(3F) inserted (with effect as mentioned in [Sch. 8 para. 1](#) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 8 para. 4\(2\)](#)
- F93** Words in s. 293(3)(b) inserted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 9\(1\)](#)
- F94** Words in s. 293(3B)(b) repealed (with effect in accordance with [Sch. 15 para. 40\(2\)](#) of the repealing Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 4](#), [Sch. 33 Pt. 2\(3\)](#), Note 6
- F95** Words in s. 293(3C) substituted for specified purposes (retrospectively) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 14](#)
- F96** Words in s. 293(3C)(b) substituted (with effect in accordance with [Sch. 27 para. 4\(5\)](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 27 para. 4\(2\)](#) (with [Sch. 27 para. 4\(6\)](#))
- F97** S.293(4)omitted by 1988(F) Sch.4 para.6(2)where s.50 (changes applicable in respect of shares issued on or after 29July 1988and before the end of 1993in respect of private rented housing)applies.
- F98** S. 293(4)(9)-(11) repealed (with effect as mentioned in s. 137(1)(2), [Sch. 26 Pt. 5\(17\)](#) Note of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 7\(b\)\(e\)](#), [Sch. 26 Pt. 5\(17\)](#)
- F99** S. 293(4A)(4B) inserted (with effect in accordance with [Sch. 17 para. 12](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 17 para. 9\(1\)](#)
- F100** Words in s. 293(4A) repealed (with effect in accordance with [Sch. 18 para. 21](#) of the repealing Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 5\(2\)\(a\)](#), [Sch. 42 Pt. 2\(13\)](#), Note 6
- F101** Word in s. 293(4A) inserted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 5\(2\)\(b\)](#)
- F102** Words in s. 293(4A) substituted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 5\(2\)\(c\)](#)
- F103** Words in s. 293(4B)(a) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 17](#) (with art. 6)
- F104** Word in s. 293(4B)(b) inserted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 5\(3\)](#)
- F105** Words in s. 293(5) inserted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 5\(4\)\(a\)](#)
- F106** Words in s. 293(5) inserted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 5\(4\)\(b\)](#)
- F107** Words in s. 293(6) substituted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 5\(5\)\(a\)](#)

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- F108** Words in s. 293(6)(a) repealed (with effect as mentioned in Sch. 13 para. 9(6), Sch. 27 Pt. 3(14) Note 1 of the repealing Act) by Finance Act 1998 (c. 36), Sch. 13 para. 9(2), **Sch. 27 Pt. 3(14)**
- F109** Words in s. 293(6)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 5(5)(b)**
- F110** S. 293(6)(b) and preceding word repealed (with effect in accordance with Sch. 17 para. 12 of the repealing Act) by Finance Act 2000 (c. 17), Sch. 17 para. 10, **Sch. 40 Pt. 2(5)**, Note 1
- F111** S. 293(6ZA)-(6ZC) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 5(6)**
- F112** S. 293(6A)-(6D) inserted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 9(3)**
- F113** Words in s. 293(6A)(a) substituted (with effect in accordance with Sch. 14 para. 1(2)-(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 14 para. 1(1)(a)**
- F114** Words in s. 293(6A)(b) substituted (with effect in accordance with Sch. 14 para. 1(2)-(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 14 para. 1(1)(b)**
- F115** S. 293(7) repealed (with effect as mentioned in s. 74(3), Sch. 27 Pt. 3(14) Note 4 of the repealing Act) by Finance Act 1998 (c. 36), Sch. 13 para. 9(4), **Sch. 27 Pt. 3(14)**
- F116** S. 293(8)(8A) substituted for s. 293(8) (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 4(7)(d)**
- F117** S. 293(8)(8AA) substituted for s. 293(8) (with effect in accordance with Sch. 17 para. 12 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 11**
- F118** S. 292(8B) inserted (1.5.1995) by Finance Act 1995 (c. 4), **s. 66(3)**
- F119** Subs.(9)-(11) omitted by 1988(F) Sch.4 para.6(2) where s.50 (*changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing*) applies.

#### Modifications etc. (not altering text)

- C4** S. 293 applied (with effect in accordance with Sch. 13 para. 4(4) of the 1995 amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **Sch. 5B para. 3(2)(c)** (as inserted by Finance Act 1995 (c. 4), **Sch. 13 para. 4(3)**)
- C5** See Insolvency (Northern Ireland) Order 1989 art.381(2) and Sch.9 para.59 (S.I.1989 No.2405—not reproduced) for change from a day to be appointed.
- C6** S. 293(8) excluded (with effect as mentioned in s. 74(3) of the 1998 amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **Sch. 5B para. 8(7)** (as inserted by Finance Act 1998 (c. 36), **Sch. 13 para. 34**)

#### Marginal Citations

- M3** Source-1983 Sch.5(4)-(7)
- M4** 1986 c. 45.
- M5** S.I. 1986/1032 (N.I. 6).

## 294 Companies with interests in land. <sup>F120</sup>

<sup>M6</sup>(1) [<sup>F121</sup>Subject to section 296, a company is not a qualifying company in relation to any shares if at any time during the relevant period]—

- (a) the value of the interests in land held by the company at that time; or
- (b) where lower, the value of the interests in land which were held by the company immediately after the issue of the shares (adjusted in accordance with section 295);

is greater than half the value of the company's assets as a whole.

- (2) For the purposes of this section, the value of the interests in land held by a company on any date shall be arrived at by first aggregating the market value on that date of each of those interests and then deducting—

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- (a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);
  - (b) the amount of any unsecured debts of the company which do not fall due for payment before the expiry of the period of 12 months beginning with that date; and
  - (c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company's assets on its winding up.
- (3) For the purposes of this section, the value of a company's assets as a whole shall be arrived at by first aggregating the market value of each of those assets and then deducting the amount of the debts and liabilities of the company.
- (4) For the purposes of subsection (3) above, the amount paid up in respect of those shares of a company (if any) which carry a present or future preferential right to the company's assets on its winding up shall be treated as a debt of the company, but otherwise a company's share capital, share premium account and reserves shall not be treated for those purposes as debts or liabilities of the company.
- (5) In this section "interest in land" means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include—
- (a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land; or
  - (b) in Scotland, the interest of a creditor in a charge or security of any kind over land.
- [<sup>F122</sup>(5A) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as to become, in law, part of it.]
- (6) In arriving at the value of any interest in land for the purposes of this section—
- (a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and
  - (b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.
- (7) Where a company is a member of a partnership which holds any interest in land—
- (a) that interest shall, for the purposes of this section and sections 295 and 296, be treated as an interest in land held by the company; but
  - (b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subsection) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.
- (8) Where a qualifying company has one or more subsidiaries, the company and its subsidiaries ("the group") shall be treated as a single company for the purposes of this section and sections 295 and 296; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.

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- (9) The Treasury may by order amend subsection (1) above by substituting a different fraction for the fraction for the time being specified there.

#### Textual Amendments

- F120** Ss.294-296 omitted by 1988(F) Sch.4 para. 70 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.
- F121** Words in s. 294(1) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 8**
- F122** 1988(F) s.52 in respect of valuations falling to be made on or after 29 July 1988.

#### Marginal Citations

- M6** Source-1983 Sch.5 5A(1)-(9), 5B, 5C; 1986 Sch.9 1(2), (7)

### 295 Valuation of interests in land for purposes of section 294(1)(b).

- <sup>M7</sup>(1) For the purposes of section 294(1)(b), the value of the interests in land held by a company immediately after the issue of the shares in question (“the original interests”) shall be adjusted by—
- (a) adding—
    - (i) the cost of any interests in land subsequently acquired by the company (“the later interests”); and
    - (ii) any expenditure (whenever payable) incurred by the company wholly and exclusively in enhancing the value of any of the original or later interests;
  - (b) deducting any consideration received by the company on the disposal of any of the original or later interests or on the grant by the company of any interest in land out of any of those interests;
  - (c) deducting any consideration otherwise derived by the company from its ownership of any of the original or later interests.
- (2) Any sum which is received by a company by way of rent, or which is attributable to the use of any premises by the company, shall be disregarded for the purposes of subsection (1)(c) above.
- (3) For the purposes of this section—
- (a) the cost of an interest in land acquired by a company shall be taken to be the amount or value of the consideration given by the company, or on its behalf, wholly and exclusively for the acquisition of the interest;
  - (b) consideration shall be brought into account without any discount for the postponement of the right to receive any part of it; and
  - (c) the grant of an interest in land out of any of the original interests shall be treated as a disposal of the original interest in question.
- (4) Where—
- (a) the interest of a company as lessee under a lease (“the lease”) falls to be valued at any time for the purposes of section 294 or the cost of acquiring that interest falls to be calculated for the purposes of this section; and
  - (b) the aggregate amount of the rent payable by the lessee under the lease before the end of the relevant period exceeds that which would be so payable under

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a lease of the premises at a full market rent (but otherwise on the same terms and conditions as the lease);

the value of the company's interest at that time shall be calculated on the assumption that the aggregate amount payable as mentioned in paragraph (b) above is a nominal amount and, where the interest was acquired after the issue of the shares in question, it shall be assumed that the company paid the appropriate premium when acquiring the interest.

- (5) In determining, for the purposes of this section, the consideration for the disposal or acquisition of an interest in land, no account shall be taken in the first instance of any contingent liability assumed by the company or by any other person.
- (6) If it is subsequently shown to the satisfaction of the Board that a contingent liability which was not taken into account in determining the consideration for a disposal or acquisition has become enforceable and is being or had been enforced, such adjustment, whether by way of a further assessment or the discharge or repayment of tax or otherwise, shall be made as is required in consequence.
- (7) Where the relief obtainable under subsection (6) above requires a discharge or repayment of tax, it shall be given on a claim to the Board and such a claim may be made at any time.

**Modifications etc. (not altering text)**

**C7** *Ss.294-296 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*

**Marginal Citations**

**M7** *Source-1983 Sch.5 5A(1)-(9), 5B, 5C; 1986 Sch.9 1(2), 7*

**296 Section 294 disappplied where amounts raised total £50,000 or less.** <sup>F123</sup>

- <sup>M8</sup>(1) Where a company raises any amount through the issue of eligible shares, section 294—
- (a) shall not have effect to deny relief in relation to those shares if the aggregate of that amount and of all other amounts (if any) so raised within the period of 12 months ending with the date of that issue does not exceed £50,000; and
- (b) where that aggregate exceeds £50,000, shall have effect to deny relief only in relation to the excess.
- (2) Where—
- (a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and
- (b) that other person, or at least one of those other persons, is a company;
- each reference to £50,000 in subsection (1)(a) and (b) above shall have effect as if it were a reference to—

$$\frac{\pounds 50,000}{1 + A}$$



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where A is the total number of companies (apart from the company in question or any of its subsidiaries) which are members of any such partnership or parties to any such joint venture during the relevant period.

- (3) Where section 294, as read with this section, requires a restriction to be placed on the relief given on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from the restrictions, be eligible for the relief.
- (4) A claimant who is dissatisfied with the manner in which the available relief is divided under this section between him and any other claimant or claimants may apply to the appropriate Commissioners who shall, after giving the other claimant or claimants an opportunity to appear and be heard or to make representations in writing, determine the question for all the claimants in the same way as an appeal.
- (5) In this section “the appropriate Commissioners” means—
  - (a) in a case where the same body of General Commissioners has jurisdiction with respect to all the claimants, those Commissioners, unless all the claimants agree that the question should be determined by the Special Commissioners;
  - (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the claimants, such of those bodies as the Board may direct, unless all the claimants agree that the question should be determined by the Special Commissioners;
  - (c) in any other case, the Special Commissioners.
- (6) <sup>F124</sup> .....

**Textual Amendments**

**F123** *Ss.294-296 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.*

**F124** *S. 296(6) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 9, Sch. 26 Pt. 5(17)*

**Marginal Citations**

**M8** Source-1983 Sch.5 5A(1)-(9), 5B, 5C; 1986 Sch.9 1(2), 7

**297 Qualifying trades.** <sup>F125</sup>

- (1) <sup>M9F126</sup> . . . A trade is a qualifying trade if it complies with the requirements of this section.
- (2) <sup>M10</sup> Subject to subsection (9) below, the trade must not at any time in the relevant period consist of one or more of the following activities if that activity amounts, or those activities when taken together amount, to a substantial part of the trade—
  - (a) dealing in [<sup>F127</sup>land, in commodities or futures or in shares, securities or other financial instruments];
  - (b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;
  - (c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;

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- (d) <sup>F128</sup> .....
  - (e) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees;
  - (f) providing legal or accountancy services;
  - <sup>F129</sup>(fa) property development;
  - (fb) farming or market gardening;
  - (fc) holding, managing or occupying woodlands, any other forestry activities or timber production;
  - (fd) operating or managing hotels or comparable establishments or managing property used as an hotel or comparable establishment;
  - (fe) operating or managing nursing homes or residential care homes, or managing property used as a nursing home or residential care home;]
  - (g) providing services or facilities for any trade carried on by another person [<sup>F130</sup>(other than a company of which the company providing the services or facilities is the subsidiary)] which consists to any substantial extent of activities within any of paragraphs (a) to [<sup>F131</sup>(fe)] above and in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company;
  - (h) <sup>F132</sup> .....
  - (j) <sup>F132</sup> .....
- (3) <sup>M11</sup>For the purposes of subsection (2)(b) above—
- (a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;
  - (b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption;
  - (c) a trade is not an ordinary trade of wholesale or retail distribution if—
    - (i) it consists to a substantial extent of dealing in goods of a kind which are collected or held as an investment or of that activity and any other activity of a kind falling within subsection [<sup>F133</sup>(2)(a) to (g)] above, taken together; and
    - (ii) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor would reasonably be expected to hold them while endeavouring to dispose of them at their market value; and
  - (d) in determining whether a trade is an ordinary trade of wholesale or retail distribution regard shall be had to the extent to which it has the following features, that is to say—
    - (i) the goods are bought by the trader in quantities larger than those in which he sells them;
    - (ii) the goods are bought and sold by the trader in different markets;
    - (iii) the trader employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, in addition to any remuneration paid to any person connected with it;
    - (iv) there are purchases or sales from or to persons who are connected with the trader;
    - (v) purchases are matched with forward sales or vice versa;

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- (vi) the goods are held by the trader for longer than is normal for goods of the kind in question;
  - (vii) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;
  - (viii) the trader does not take physical possession of the goods;
- those features in sub-paragraphs (i) to (iii) being regarded as indications that the trade is such an ordinary trade and those in sub-paragraphs (iv) to (viii) being regarded as indications of the contrary.

[<sup>F134</sup>(3A) For the purposes of this Chapter the activities of a person shall not be taken to fall within paragraph (fd) or (fe) of subsection (2) above except where that person has an estate or interest in, or is in occupation of, the hotels or comparable establishments or, as the case may be, the nursing homes or residential care homes.]

[<sup>F135</sup>(4) A trade shall not be treated as failing to comply with this section by reason only that at some time in the relevant period it consists to a substantial extent in the receiving of royalties or licence fees if the royalties and licence fees (or all but for a part that is not a substantial part in terms of value) are attributable to the exploitation of relevant intangible assets.

- (5) For this purpose an intangible asset is a “relevant intangible asset” if the whole or greater part (in terms of value) of it has been created—
- (a) by the company carrying on the trade, or
  - (b) by a company which at all times during which it created the intangible asset was—
    - (i) the parent company of the company carrying on the trade, or
    - (ii) a qualifying subsidiary of that parent company.

- (5A) For the purposes of subsection (5) above—
- (a) in the case of an intangible asset that is intellectual property, references to the creation of the asset by a company are to its creation in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others);
  - (b) “parent company” means a company that—
    - (i) has one or more 51% subsidiaries, but
    - (ii) is not itself a 51% subsidiary of another company; and
  - (c) a subsidiary of the parent company referred to in subsection (5)(b) above is a “qualifying subsidiary” of that company if it is a subsidiary of a kind which the parent company may hold by virtue of section 308.

For the purposes of paragraph (c) above, section 308 shall have effect as if the references in that section to the qualifying company were to that parent company.

(5B) For the purposes of subsections (4) to (5A) above “intangible asset” means any asset which falls to be treated as an intangible asset in accordance with [<sup>F136</sup>generally accepted accounting practice].

<sup>F137</sup>  
.....

- (5C) In subsection (5A)(a) above “intellectual property” means—
- (a) any patent, trade mark, registered design, copyright, design right, performer’s right or plant breeder’s right; and

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- (b) any rights under the law of a country or territory outside the United Kingdom which correspond or are similar to those falling within paragraph (a) above.]
- (6)<sup>M12</sup> A trade shall not be treated as failing to comply with this section by reason only of its consisting of letting ships, other than [<sup>F138</sup>offshore installations] or pleasure craft, on charter if—
- (a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;
  - (b) every ship beneficially owned by the company is registered in the United Kingdom; and
  - (c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and
  - (d) the conditions mentioned in subsection (7) below are satisfied in relation to every letting on charter by the company;

but where any of the requirements mentioned in paragraphs (a) to (d) above are not satisfied in relation to any lettings of such ships, the trade shall not thereby be treated as failing to comply with this section if those lettings and any other activity of a kind falling within subsection [<sup>F133</sup>(2)(a) to (g)] above do not, when taken together, amount to a substantial part of the trade.

- (7) The conditions are that—
- (a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the lease or otherwise) for extending it beyond that period otherwise than at the option of the lessee;
  - (b) during the period of the letting there is no provision in force (whether made in the lease or otherwise) for the grant of a new letting to end, otherwise than at the option of the lessee, more than 12 months after that provision is made;
  - (c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;
  - (d) under the terms of the charter the company is responsible as principal—
    - (i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and
    - (ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period; and
  - (e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this subsection shall have effect, in relation to any letting between the company in question and its subsidiary, or between it and another company of which it is a subsidiary or between it and a company which is a subsidiary of the same company of which it is a subsidiary, as if paragraph (c) were omitted.

- (8)<sup>M13</sup> The trade must, during the relevant period, be conducted on a commercial basis and with a view to the realisation of profits.
- (9)<sup>F139</sup> .....

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### Textual Amendments

- F125** Ss.297-298 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.
- F126** Words in s. 297(1) repealed (with effect as mentioned in s. 74(3), Sch. 27 Pt. 3(14) Note of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para 10](#), [Sch. 27 Pt. 3\(14\)](#)
- F127** Words in s. 297(2)(a) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 10\(b\)\(i\)](#)
- F128** S. 297(2)(d) repealed (with effect as mentioned in Sch. 15 para. 40(2) of the repealing Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 5\(a\)](#), [Sch. 33 Pt. 2\(3\)](#), Note 6
- F129** S. 297(2)(fa)-(fe) inserted (with effect as mentioned in [Sch. 12 para. 5\(1\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 12 para. 1\(1\)](#)
- F130** Words in s. 297(2)(g) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 10\(b\)\(ii\)](#)
- F131** Word in s. 297(2)(g) substituted (with effect as mentioned in [Sch. 12 para. 5\(1\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 12 para. 1\(2\)](#)
- F132** S. 297(2)(h)(j) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 10\(b\)\(iii\)](#), [Sch. 26 Pt. 5\(17\)](#)
- F133** Words in s. 297(3)(c)(i)(6) substituted (with effect as mentioned in [Sch. 8 para. 1](#) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 8 para. 5](#)
- F134** S. 297(3A) inserted (with effect as mentioned in [Sch. 12 para. 5\(1\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 12 para. 1\(3\)](#)
- F135** S. 297(4)-(5C) substituted for s. 297(4)(5) (with effect as mentioned in [Sch. 17 para. 13\(2\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 17 para. 13\(1\)](#)
- F136** Words in s. 297(5B) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), [s. 103\(4\)\(a\)](#)
- F137** Words in s. 297(5B) repealed (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), [Sch. 40 Pt. 3\(16\)](#)
- F138** Words in s. 297(6) substituted (with effect in accordance with [Sch. 27 para. 4\(5\)](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 27 para. 4\(3\)](#) (with [Sch. 27 para. 4\(6\)](#))
- F139** S. 297(9) repealed (with effect as mentioned in Sch. 15 para. 40(2) of the repealing Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 5\(b\)](#), [Sch. 33 Pt. 2\(3\)](#), Note 6

### Marginal Citations

- M9** Source-1983 Sch.5 6(1)
- M10** Source-1983 Sch.5 6(2); 1986 Sch.9 8(2)
- M11** Source-1983 Sch.5 6(4); 1986 Sch.9 8(4); 1981 s.56(3), Sch.11
- M12** Source-1983 Sch.5 6(2B), (2C); 1984 s.37(2); 1986 Sch.9 8(3)
- M13** Source-1983 Sch.5 6(3)

## 298 Provisions supplementary to sections 293 and 297. <sup>F140</sup>

- (1) <sup>M14</sup>F<sup>F141</sup>For the purposes of [F<sup>F141</sup>section 297] a person has a controlling interest in a trade—
- (a) in the case of a trade carried on by a company, if—
    - (i) he controls the company;
    - (ii) the company is a close company and he or an associate of his is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent. of the ordinary share capital of the company; or
    - (iii) not less than half of the trade could in accordance with section 344(2) be regarded as belonging to him;

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- (b) in any other case, if he is entitled to not less than half of the assets used for, or the income arising from, the trade.
- (2) For the purposes of subsection (1) above, there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (3) References in this section and section 297 to a trade shall be construed without regard to so much of the definition of “trade” in section 832(1) as relates to adventures or concerns in the nature of trade; but the foregoing provisions do not affect the construction of references in section 297(2)(g) or subsection (1) above to a trade carried on by a person other than the company and those references shall be construed as including a reference to any business, profession or vocation.
- [<sup>F142</sup>(4) The Treasury may by order amend [<sup>F143</sup>sections 293 and 297] and this section in such manner as they consider expedient].
- (5) <sup>M15</sup>In section 297—
- “film” means an original master negative of a film, an original master film disc or an original master film tape;
- [<sup>F144</sup>“nursing home” means any establishment which exists wholly or mainly for the provision of nursing care for persons suffering from sickness, injury or infirmity or for women who are pregnant or have given birth to children;]
- <sup>F145</sup>.....
- “pleasure craft” means any ship of a kind primarily used for sport or recreation;
- <sup>F146</sup>.....
- [<sup>F147</sup>“property development” means the development of land—
- (a) by a company which has, or at any time has had, an interest in the land, and
- (b) with the sole or main object of realising a gain from the disposal of an interest in the land when it is developed;
- “residential care home” means any establishment which exists wholly or mainly for the provision of residential accommodation, together with board and personal care, for persons in need of personal care by reason of old age, mental or physical disabilities, past or present dependence on alcohol or drugs or any past illnesses or past or present mental disorders;] and
- “sound recording” means, in relation to a film, its sound track, original master audio disc or, as the case may be, original master audio tape,
- [<sup>F148</sup>and section 312(1A)(b) shall apply to determine the relevant period for the purposes of that section].
- [<sup>F149</sup>(5A) References in this section, in relation to an hotel, to a comparable establishment are references to a guest house, hostel or other establishment the main purpose of maintaining which is the provision of facilities for overnight accommodation (whether with or without catering services).
- (5B) Subject to subsection (5C) below, the reference in subsection (5) above to an interest in land is a reference to—
- (a) any estate, interest or right in or over land, including any right affecting the use or disposition of land; or

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- (b) any right to obtain such an estate, interest or right from another which is conditional on the other's ability to grant the estate, interest or right.
- (5C) References in this section to an interest in land do not include references to—
- (a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of mortgage, an agreement for a mortgage or a charge of any kind over land; or
- (b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.]
- (6) <sup>F150</sup> .....
- (7) <sup>F150</sup> .....
- (8) <sup>F150</sup> .....

#### Textual Amendments

- F140** Ss.297-298 omitted by 1988(F) Sch.4 para.8 where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.
- F141** Words in s. 298(1) substituted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 11**
- F142** S. 298(4) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 11(a)**
- F143** Words in s. 298(4) substituted (31.7.1998) by Finance Act 1998 (c. 36), **s. 70(2)** (with s. 70(4))
- F144** S. 298(5): definition of "nursing home" inserted (with effect as mentioned in Sch. 12 para. 5(1) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 12 para. 2(1)**
- F145** S. 298(5): definition of "oil rig" repealed (with effect in accordance with Sch. 27 para. 4(5) of the repealing Act) by Finance Act 2004 (c. 12), Sch. 27 para. 4(4), **Sch. 42 Pt. 2(19)**, Note 1 (with Sch. 27 para. 4(6))
- F146** S. 298(5): definition of "property development" repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 11(b), **Sch. 26 Pt. 5(17)**
- F147** S. 298(5): definitions of "property development" and "residential care home" inserted (with effect as mentioned in Sch. 12 para. 5(1) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 12 para. 2(2)**
- F148** Words in s. 298(5) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 11(c)**
- F149** S. 298(5A)-(5C) inserted (with effect as mentioned in Sch. 12 para. 5(1) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 12 para. 2(3)**
- F150** S. 298(6)-(8) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 11(d), **Sch. 26 Pt. 5(17)**

#### Marginal Citations

- M14** Source-1981 s.56(8)-(10); 1983 Sch.5 5(9), 6(2), (3), 6(5)-(7); 1986 Sch.9 1(2), 8(4)
- M15** Source-1983 Sch.5 6(2B), (10); 1984 s.37(2); 1985 s.44(5); 1986 Sch.9 4

#### <sup>F151</sup><sup>F152</sup> **Disposal of shares.**

- (1) [<sup>F153</sup> Subject to section 304(1), where an individual makes, before the end of the relevant period, any disposal of eligible shares to which relief is attributable], then—
- (a) if the disposal is made otherwise than by way of a bargain made at arm's length, [<sup>F154</sup> the relief] attributable to those shares shall be withdrawn, and

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- (b) in the case of any disposal made by way of a bargain made at arm's length—
- (i) if, apart from this subsection, the relief attributable to those shares is greater than the amount mentioned in subsection (2) below, it shall be reduced by that amount, and
  - (ii) if sub-paragraph (i) above does not apply, [<sup>F154</sup>the relief] attributable to those shares shall be withdrawn.
- (2) The amount referred to in subsection (1) above is an amount equal to tax at the lower rate for the year of assessment for which the relief was given on the amount or value of the consideration which the individual receives for the shares.
- (3) Where, in relation to [<sup>F155</sup>any issue of eligible shares held by any individual], the disposal referred to in subsection (1) above is a disposal of part of [<sup>F156</sup>the issue], that subsection shall apply to the relief that was attributable to that part.
- (4) Where an individual's liability to income tax has been reduced in any year of assessment under section 289A in respect of any issue of [<sup>F157</sup>eligible] shares [<sup>F158</sup>issued in that year (or treated by section 289B(5) as so issued)] and the amount of the reduction ("A") is less than the amount ("B") which is equal to tax at the lower rate for that year on the amount subscribed for the issue, subsection (2) above shall have effect as if the amount or value referred to in that subsection were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

- (5) Where an option, the exercise of which would bind the grantor to purchase any shares, is granted to an individual during the relevant period, any relief attributable to the shares to which the option relates shall be withdrawn.
- [<sup>F159</sup>(5A) The shares to which such an option relates shall be taken to be those which, if—
- (a) the option were exercised immediately after the grant, and
  - (b) any shares in the company acquired by the individual after the grant were disposed of immediately after being acquired,
- would be treated for the purposes of this section as disposed of in pursuance of the option.]
- [<sup>F160</sup>(6) Where shares of any class in a company have been acquired by an individual on different days, any disposal by him of shares of that class shall be treated for the purposes of this section as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (6A) Where shares of any class in a company have been acquired by an individual on the same day, any of those shares disposed of by him shall be treated for the purposes of this section as disposed of in the following order, namely—
- (a) first any to which neither relief under this Chapter nor deferral relief is attributable;
  - (b) next any to which deferral relief, but not relief under this Chapter, is attributable;
  - (c) next any to which relief under this Chapter, but not deferral relief, is attributable; and



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- (d) finally any to which both relief under this Chapter and deferral relief are attributable;
- and in this subsection and subsection (6C) below “deferral relief” has the same meaning as in Schedule 5B to the 1992 Act.
- (6B) Any shares falling within paragraph (c) or (d) of subsection (6A) above which are treated by section 289B(5) as issued on an earlier day shall be treated as disposed of before any other shares falling within that paragraph.
- (6C) The following, namely—
- (a) any shares to which relief under this Chapter is attributable and which were transferred to an individual as mentioned in section 304, and
  - (b) any shares to which deferral relief, but not relief under this Chapter, is attributable and which were acquired by an individual on a disposal to which section 58 of the 1992 Act applies,
- shall be treated for the purposes of subsections (6) and (6A) above as acquired by him on the day on which they were issued.
- (6D) In a case to which section 127 of the 1992 Act applies [<sup>F161</sup>(including a case where that section applies by virtue of any enactment relating to chargeable gains)], shares comprised in the new holding shall be treated for the purposes of subsections (6) and (6A) above as acquired when the original shares were acquired.
- In this subsection “new holding” and “original shares” [<sup>F162</sup>have the same meaning as in section 127 of the 1992 Act (or, as the case may be, that section as applied by virtue of the enactment concerned)].]
- (7) <sup>F163</sup> .....
- (8) For the purposes of this section—
- (a) <sup>F164</sup> .....
  - (b) references to a disposal of shares include references to the grant of an option the exercise of which would bind the grantor to sell the shares, and
  - (c) section 312(1A)(a) applies to determine the relevant period.]

#### Textual Amendments

- F151** S. 299 substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 12](#)
- F152** S. 299 (as it has effect in relation to shares issued before 1st January 1994) amended (with effect as mentioned in [Sch. 13 para. 39\(3\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 39\(1\)\(2\)](#); and s. 299 (as it applies to shares issued before 1st January 1994) further amended (with effect as mentioned in [Sch. 9 paras. 7, 8\(1\)](#) of the further amending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 9 para. 4\(2\)](#)
- F153** Words in s. 299(1) substituted (with effect as mentioned in s. 74(3), [Sch. 13 para. 12\(8\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 12\(1\)\(a\)](#)
- F154** Words in s. 299(1)(a)(b)(ii) substituted (with effect as mentioned in s. 74(3), [Sch. 13 para. 12\(8\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 12\(1\)\(b\)](#)
- F155** Words in s. 299(3) substituted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 12\(2\)\(a\)](#)
- F156** Words in s. 299(3) substituted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 12\(2\)\(b\)](#)

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- F157** Word in s. 299(4) inserted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 13 para. 12\(3\)\(a\)](#)
- F158** Words in s. 299(4) inserted (with effect as mentioned in s. 74(3), [Sch. 13 para. 12\(8\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 13 para. 12\(3\)\(b\)](#)
- F159** S. 299(5A) inserted (with effect as mentioned in s. 74(3), [Sch. 13 para. 12\(9\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 13 para. 12\(4\)](#)
- F160** S. 299(6)-(6D) substituted for s. 299(6) (with effect as mentioned in s. 74(3), [Sch. 13 para. 12\(8\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 13 para. 12\(5\)](#)
- F161** Words in s. 299(6D) (as s.299 applies to shares issued after 31.12.1993) substituted (with effect as mentioned in [Sch. 9 paras. 7, 8\(1\)](#) of the amending Act) by [Finance Act 2002 \(c. 23\), Sch. 9 para. 4\(2\)](#)
- F162** Words in s. 299(6D) (as s.299 applies to shares issued after 31.12.1993) substituted (with effect as mentioned in [Sch. 9 paras. 7, 8\(1\)](#) of the amending Act) by [Finance Act 2002 \(c. 23\), Sch. 9 para. 4\(2\)](#)
- F163** S. 299(7) repealed (with effect as mentioned in s. 74(3), [Sch. 13 para. 12\(8\)](#), [Sch. 27 Pt. 3\(14\)](#) Note 2 of the repealing Act) by [Finance Act 1998 \(c. 36\), Sch. 13 para. 12\(6\), Sch. 27 Pt. 3\(14\)](#)
- F164** S. 299(8)(a) repealed (with effect as mentioned in s. 74(3), [Sch. 27 Pt. 3\(14\)](#) Note 4 of the repealing Act) by [Finance Act 1998 \(c. 36\), Sch. 13 para. 12\(6\), Sch. 27 Pt. 3\(14\)](#)

**Modifications etc. (not altering text)**

- C8** S. 299 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), ss. 150\(4\), 289](#) (with [ss. 60, 101\(1\), 171, 201\(3\)](#)).

**[<sup>F165</sup>299A] Loan linked investments.**

- (1) [<sup>F166</sup>An individual is not eligible for relief in respect of any shares in a company if]—
- (a) there is a loan made by any person, at any time in the relevant period, to that individual or any associate of his; and
  - (b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not subscribed for those shares or had not been proposing to do so.
- (2) References in this section to the making by any person of a loan to any individual or an associate of his include references—
- (a) to the giving by that person of any credit to that individual or any associate of his; and
  - (b) to the assignment or assignation to that person of any debt due from that individual or any associate of his;
- and the references in section 307(6)(ca) to the making of a loan shall be construed accordingly.

[ Section 312(1A)(a) applies to determine the relevant period for the purposes of this <sup>F167</sup>(3) section.]]

**Textual Amendments**

- F165** S. 299A inserted (27.7.1993 with application in relation to any case in which the claim for relief is made on or after 16.3.1993) by [1993 c. 34, s. 111\(1\)\(4\)](#)
- F166** Words in s. 299A(1) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 15 para. 13\(a\)](#)
- F167** S. 299A(3) Inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 15 para. 13\(b\)](#)

*Status: Point in time view as at 19/07/2006.*

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**[<sup>F168</sup>299B] Pre-arranged exits.**

- (1) An individual is not eligible for relief in respect of any shares in a company if the relevant arrangements include—
  - (a) arrangements with a view to the subsequent repurchase, exchange or other disposal of those shares or of other shares in or securities of the same company;
  - (b) arrangements for or with a view to the cessation of any trade which is being or is to be or may be carried on by the company or a person connected with the company;
  - (c) arrangements for the disposal of, or of a substantial amount of, the assets of the company or of a person connected with the company;
  - (d) arrangements the main purpose of which, or one of the main purposes of which, is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for persons investing in shares in that company against what would otherwise be the risks attached to making the investment.
- (2) The arrangements referred to in subsection (1)(a) above do not include any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in section 304A(1).
- (3) The arrangements referred to in subsection (1)(b) and (c) above do not include any arrangements applicable only on the winding up of a company except in a case where—
  - (a) the relevant arrangements include arrangements for the company to be wound up; or
  - (b) the company is wound up otherwise than for bona fide commercial reasons.
- (4) The arrangements referred to in subsection (1)(d) above do not include any arrangements which are confined to the provision—
  - (a) for the company itself, or
  - (b) in the case of a company which is a parent company of a trading group, for the company itself, for the company itself and one or more of its subsidiaries or for one or more of its subsidiaries,
 of any such protection against the risks arising in the course of carrying on its business as it might reasonably be expected so to provide in normal commercial circumstances.
- (5) The reference in subsection (4) above to the parent company of a trading group shall be construed in accordance with the provision contained for the purposes of section 293 in that section.
- (6) In this section “the relevant arrangements” means—
  - (a) the arrangements under which the shares are issued to the individual; and
  - (b) any arrangements made before the issue of the shares to him in relation to or in connection with that issue.
- (7) <sup>F169</sup>.....]

**Textual Amendments**

**F168** S. 299B inserted (with effect in accordance with s. 71(5) of the amending Act) by Finance Act 1998 (c. 36), s. 71(1)

*Status: Point in time view as at 19/07/2006.*

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**F169** S. 299B(7) repealed (with effect in accordance with Sch. 17 para. 14(2)(3) of the repealing Act) by Finance Act 2000 (c. 17), **Sch. 40 Pt. 2(5)**, Note 3

### 300 Value received from company.

<sup>F170</sup><sup>F171</sup>(1) Subsection (1A) below applies where an individual who subscribes for eligible shares in a company receives any value <sup>F172</sup>(other than insignificant value)] from the company at any time in the <sup>F173</sup>period of restriction].]

(1A) Where any relief is attributable to those shares, then (unless the amount of the relief has already been reduced on account of the value received)—

- (a) if it is greater than the amount mentioned in subsection (1B) below, it shall be reduced by that amount, and
- (b) if paragraph (a) above does not apply, the relief shall be withdrawn.

<sup>F174</sup>(1AA) This section is subject to section 300A.]

(1B) The amount referred to in subsection (1A) above is an amount equal to tax at the lower rate for the year of assessment for which the relief was given on the amount of the value received; and section 299(4) above applies for the purposes of this subsection as it applies for the purposes of subsection (2) of that section.

<sup>F175</sup>(1BA) Where—

- (a) an individual subscribes for two or more issues of eligible shares in a company, being issues comprising shares in respect of which the individual obtains relief, and
- (b) the individual receives any value from the company at any time in the periods of restriction relating to the shares comprised in two or more of those issues,

this section has effect in relation to the shares comprised in each of the issues referred to in paragraph (b) above as if the amount of the value received were reduced by multiplying it by the fraction specified in subsection (1BB) below.

(1BB) The fraction is—

$$\frac{A}{B}$$

where—

A is the amount subscribed by the individual for the eligible shares comprised in the issue in question, and

B is the aggregate of that amount and the corresponding amount or amounts for eligible shares comprised in the other issue or issues.

(1BC) Where—

- (a) an individual who subscribes for eligible shares in a company receives value (“the relevant receipt”) from the company during the period of restriction,
- (b) the individual has received from the company one or more receipts of insignificant value at a time or times—
  - (i) during that period, but
  - (ii) not later than the time of the relevant receipt, and

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- (c) the aggregate amount of the value of the receipts within paragraphs (a) and (b) above is not an amount of insignificant value,

the individual shall be treated for the purposes of this Chapter as if the relevant receipt had been a receipt of an amount of value equal to the aggregate amount.

For this purpose a receipt does not fall within paragraph (b) above if it has previously been aggregated under this subsection.]

[<sup>F176</sup>(1C) [<sup>F177</sup>Any reference in subsection (1), (1BA) or (1BC) above to the receipt of value (however expressed) from a company includes a reference] to the receipt of value from a person who at any time in the relevant period is connected with the company, whether or not he is so connected at the time when the individual concerned receives the value from him; and other references to the company in this section and section 301 shall be read accordingly.]

(1D) Notwithstanding anything in subsection (2) below, for the purposes of this section an individual is not to be treated as receiving value from a company by reason only of the payment to him, or any associate of his, of any remuneration for services rendered to the company as a director if the remuneration is reasonable remuneration.

(1E) Section 291(4) applies for the purposes of subsection (1D) above as it applies for the purposes of section 291A, and the reference in subsection (1D) above to the payment of remuneration includes the provision of any benefit or facility]

(2) <sup>M16</sup>For the purposes of this section an individual receives value from the company if the company—

(a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;

[<sup>F178</sup>(b) repays, in pursuance of any arrangements for or in connection with the acquisition of the shares in respect of which the relief is claimed, any debt owed to the individual other than a debt which was incurred by the company—

(a) on or after the date of issue of those shares; and

(b) otherwise than in consideration of the extinguishment of a debt incurred before that date;]

(c) makes to the individual any payment for giving up his right to any debt (other than a debt in respect of a payment of the kind mentioned in section [<sup>F179</sup>291A(3)(a) or (f)] or an ordinary trade debt) on its extinguishment;

(d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;

(e) makes a loan or advance to the individual which has not been repaid in full before the issue of the shares in respect of which relief is claimed;

(f) provides a benefit or facility for the individual;

(g) transfers an asset to the individual for no consideration or for consideration less than its market value or acquires an asset from him for consideration exceeding its market value; or

(h) makes to him any other payment except a payment of the kind mentioned in [<sup>F180</sup>any of the paragraphs of section 291A(3)] or a payment in discharge of an ordinary trade debt.

(3) For the purposes of this section an individual also receives value from the company if he receives in respect of ordinary shares held by him any payment or asset in a

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winding up or in connection with a dissolution of the company, being a winding up or dissolution falling within section 293(6).

- (4) The value received by an individual is—
- (a) in a case within paragraph (a), (b) or (c) of subsection (2) above, the amount [<sup>F181</sup>received] by the individual or, if greater, the market value of the shares, securities or debt in question;
  - (b) in a case within paragraph (d) of that subsection, the amount of the liability;
  - (c) in a case within paragraph (e) of that subsection, the amount of the loan or advance reduced by the amount of any repayment made before the issue of the shares in respect of which relief is claimed;
  - (d) in a case within paragraph (f) of that subsection, the cost to the company of providing the benefit or facility less any consideration given for it by the individual;
  - (e) in a case within paragraph (g) of that subsection, the difference between the market value of the asset and the consideration (if any) given for it;
  - (f) in a case within paragraph (h) of that subsection, the amount of the payment; and
  - (g) in a case within subsection (3) above, the amount of the payment or, as the case may be, the market value of the asset.
- (5) <sup>M17</sup>For the purposes of this section an individual also receives value from the company if any person who would, for the purposes of section 291, be treated as connected with the company—
- (a) purchases any of its share capital or securities which belong to the individual; or
  - (b) makes any payment to him for giving up any right in relation to any of the company's share capital or securities;

and the value received by the individual is the amount [<sup>F181</sup>received] by the individual or, if greater, the market value of the shares or securities in question.

- [<sup>F182</sup>(6) Where by reason of an individual's disposal of shares in a company any relief attributable to those shares is withdrawn or reduced under section 299, the individual shall not be treated for the purposes of this section as receiving value from the company in respect of the disposal.]

#### Textual Amendments

- F170** S. 300(1)-(1E) substituted for s. 300(1) (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 14(a)**
- F171** S. 300(1) substituted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 13(1)**
- F172** Words in s. 300(1) inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 15(1)**
- F173** Words in s. 300(1) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 15(2)**
- F174** S. 300(1A) inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 15(3)**
- F175** S. 300(1BA)-(1BC) inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 15(4)**
- F176** S. 300(1C) substituted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 13(2)**



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- F177** Words in s. 300(1C) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 15(5)**
- F178** S. 300(2)(b) substituted (with effect in accordance with Sch. 18 para. 6(2)(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 6(1)**
- F179** Words in s. 300(2)(c) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 14(b)(i)**
- F180** Words in s. 300(2)(h) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 14(b)(ii)**
- F181** Words in s. 300(4)(a)(5) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 15(6)**
- F182** S. 300(6) inserted (with effect as mentioned in s. 74(3), Sch. 13 para. 13(4) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 13(3)**

#### Marginal Citations

- M16** Source-1983 Sch.5 8(2); 1981 s.58(2)-(4); 1986 Sch.9 10(3)
- M17** Source-1983 Sch.5 8(3); 1983 (No.2) Sch.1 5

### [<sup>F183</sup>300A] Receipt of replacement value

- (1) Where—
- any relief attributable to any eligible shares comprised in an issue of shares subscribed for by an individual (“the individual”) would, in the absence of this section, be reduced or withdrawn under section 300 by reason of a receipt of value within subsection (2) or (5) of that section (“the original value”),
  - the original supplier receives value (“the replacement value”) from the original recipient by virtue of a qualifying receipt, and
  - the amount of the replacement value is not less than the amount of the original value,
- the receipt of the original value shall be disregarded for the purposes of section 300.
- This is subject to subsections (7) and (8) below.
- (2) For the purposes of this section—
- “the original recipient” means the person who receives the original value, and
- “the original supplier” means the person from whom that value was received.
- (3) Where the amount of the original value is, by virtue of subsection (1BA) of section 300, treated as reduced for the purposes of that section as it applies in relation to the eligible shares in question, the reference in subsection (1)(c) above to the amount of the original value shall be read as a reference to the amount of that value disregarding the reduction.
- (4) A receipt of the replacement value is a qualifying receipt for the purposes of subsection (1) above if it arises—
- by reason of the original recipient doing one or more of the following—
    - making a payment to the original supplier, other than a payment which falls within paragraph (c) below or to which subsection (5) below applies;
    - acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset;



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- (iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset;
  - (b) where the receipt of the original value was within section 300(2)(d), by reason of an event the effect of which is to reverse the event which constituted the receipt of the original value; or
  - (c) where the receipt of the original value was within section 300(5), by reason of the original recipient repurchasing the share capital or securities in question, or (as the case may be) reacquiring the right in question, for a consideration the amount or value of which is not less than the amount of the original value.
- (5) This subsection applies to—
- (a) any payment for any goods, services or facilities, provided (whether in the course of a trade or otherwise) by—
    - (i) the original supplier, or
    - (ii) any other person who, at any time in the period of restriction, is an associate of, or connected with, that supplier (whether or not he is such an associate, or so connected, at the material time),
 which is reasonable in relation to the market value of those goods, services or facilities;
  - (b) any payment of any interest which represents no more than a reasonable commercial return on money lent to—
    - (i) the original recipient, or
    - (ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time);
  - (c) any payment for the acquisition of an asset which does not exceed its market value;
  - (d) any payment, as rent for any property occupied by—
    - (i) the original recipient, or
    - (ii) any person who, at any time in the period of restriction, is an associate of his (whether or not he is such an associate at the material time),
 of an amount not exceeding a reasonable and commercial rent for the property;
  - (e) any payment in discharge of an ordinary trade debt; and
  - (f) any payment for shares in or securities of any company in circumstances that do not fall within subsection (4)(a)(ii) above.
- (6) For the purposes of this section, the amount of the replacement value is—
- (a) in a case within paragraph (a) of subsection (4) above, the aggregate of—
    - (i) the amount of any payment within sub-paragraph (i) of that paragraph, and
    - (ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it,
  - (b) in a case within subsection (4)(b) above, the same as the amount of the original value, and
  - (c) in a case within subsection (4)(c) above, the amount or value of the consideration received by the original supplier,
- and section 300(4) and (5) shall apply for the purposes of determining the amount of the original value.

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- (7) The receipt of the replacement value by the original supplier shall be disregarded for the purposes of this section, as it applies in relation to the eligible shares, to the extent to which that receipt has previously been set (under this section) against any receipts of value which are, in consequence, disregarded for the purposes of section 300 as that section applies in relation to those shares or any other shares subscribed for by the individual.
- (8) The receipt of the replacement value by the original supplier (“the event”) shall be disregarded for the purposes of this section if—
- (a) the event occurs before the start of the period of restriction, or
  - (b) in a case where the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or
  - (c) where an appeal has been brought by the individual against an assessment to withdraw or reduce any relief attributable to the eligible shares by reason of the receipt of the original value, the event occurs more than 60 days after the amount of relief which falls to be withdrawn has been finally determined.
- But nothing in this section requires the replacement value to be received after the original value.
- (9) Subsection (10) below applies where—
- (a) the receipt of the replacement value by the original supplier is a qualifying receipt (for the purposes of subsection (1) above) in consequence of which any receipts of value are disregarded for the purposes of section 300 as that section applies in relation to the shares in question or any other shares subscribed for by the individual in question, and
  - (b) the event which gives rise to the receipt is (or includes) a subscription for shares by—
    - (i) the individual, or
    - (ii) any person who, at any time in the period of restriction, is an associate of his, whether or not he is such an associate at the material time.
- (10) Where this subsection applies, the person who subscribes for the shares as mentioned in subsection (9)(b) above shall not—
- (a) be eligible for any relief under this Chapter in relation to those shares or any other shares in the same issue, or
  - (b) by virtue of his subscription for those shares or any other shares in the same issue, be treated as making a qualifying investment for the purposes of Schedule 5B to the 1992 Act (enterprise investment scheme: reinvestment).
- (11) In this section—
- (a) any reference to a payment to a person (however expressed) includes a reference to a payment made to him indirectly or to his order or for his benefit, and
  - (b) references to “the period of restriction” are to the period of restriction relating to the shares mentioned in subsection (1)(a) above.]

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### Textual Amendments

**F183** S. 300A inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 16

## 301 Provisions supplementary to section 300.

- (1) <sup>F184</sup> .....
- (2) <sup>F184</sup> .....
- (3) <sup>M18</sup> For the purposes of section 300(2)(d) a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (4) For the purposes of section 300(2)(e) there shall be treated as if it were a loan made by the company to the individual—
- (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company; and
  - (b) the amount of any debt due from the individual to a third person which has been assigned to the company.
- [<sup>F185</sup>(4A) For the purposes of this section and [<sup>F186</sup>sections 300 and 300A], an individual who acquires any eligible shares on such a transfer as is mentioned in section 304 shall be treated as if he subscribed for those shares.]
- (5) In this section and [<sup>F186</sup>sections 300 and 300A], “an ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business where [<sup>F187</sup>any credit] given does not exceed six months and is not longer than that normally given to the customers of the person carrying on the trade or business.
- (6) In this section and section 300—
- (a) any reference to a payment or transfer to an individual includes a reference to a payment or transfer made to him indirectly or to his order or for his benefit; and
  - (b) any reference to an individual includes a reference to an associate of his and any reference to the company includes a reference to any person connected with the company.
- [<sup>F188</sup>(6A) Section 312(1A)(a) applies to determine the relevant period for the purposes of section 300.]
- (7) <sup>F189</sup> .....

### Textual Amendments

**F184** S. 301(1)(2) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 15(a), Sch. 26 Pt. 5(17)

**F185** S. 301(4A) inserted (with effect as mentioned in s. 74(3), Sch. 13 para. 14(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 13 para. 14(1)

**F186** Words in s. 301(4A)(5) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 17

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**F187** Words in s. 301(5) substituted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 14(2)**

**F188** S. 301(6A) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 15(b)**

**F189** S. 301(7) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 15(c), Sch. 26 Pt. 5(17)**

#### Marginal Citations

**M18** Source-1981 s.58(6)-(9); 1983 Sch.5 8(2); 1986 Sch.9 10(3); 1987 Sch.15 14(2)

### [<sup>F190</sup>301A] Receipts of insignificant value: supplementary provision

- (1) In this section and section 300 references to a receipt of insignificant value (however expressed) are references to a receipt of an amount of insignificant value.

This is subject to subsection (3) below.

- (2) For the purposes of this section and section 300 “an amount of insignificant value” means an amount of value which—

- (a) does not exceed £1,000, or
- (b) if it exceeds that amount, is insignificant in relation to the amount subscribed by the individual in question for the eligible shares in question.

- (3) For the purposes of section 300, if, at any time in the period—

- (a) beginning one year before the eligible shares in question are issued, and
- (b) expiring at the end of the issue date,

arrangements are in existence which provide for the individual in question to receive or to be entitled to receive, at any time in the period of restriction relating to those shares, any value from the company that issued those shares, no amount of value received by the individual shall be treated as a receipt of insignificant value.

- (4) For the purposes of this section—

- (a) references to the individual include references to any person who, at any time in the period of restriction relating to the shares in question, is an associate of his (whether or not he is such an associate at the material time), and
- (b) the reference in subsection (3) above to the company includes a reference to any person who, at any time in the period of restriction relating to the shares in question, is connected with the company (whether or not that person is so connected at the material time).

- (5) For the purposes of this section, an individual who acquires any eligible shares on such a transfer as is mentioned in section 304 shall be treated as if he subscribed for those shares.]

#### Textual Amendments

**F190** S. 301A inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 18**

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### 302 Replacement capital.

[<sup>F191M19</sup>(1) Any relief attributable to any shares in a company held by an individual shall be withdrawn if—

- (a) at any time in the relevant period, the company or any subsidiary—
  - (i) begins to carry on as its trade or as part of its trade a trade which was previously carried on at any time in that period otherwise than by the company or any subsidiary, or
  - (ii) acquires the whole, or a greater part, of the assets used for the purposes of a trade previously so carried on, and
- (b) subsection (2) below applies in relation to that individual]

(2) This subsection applies in relation to an individual where—

- (a) any person or group of persons to whom an interest amounting in the aggregate to more than a half share in the trade (as previously carried on) belonged, at any time in the relevant period, is or are a person or group of persons to whom such an interest in the trade carried on by the company belongs or has, at any such time, belonged; or
  - (b) any person or group of persons who control or, at any such time, have controlled the company is or are a person or group of persons who, at any such time, controlled another company which previously carried on the trade;
- and the individual is that person or one of those persons.

(3) [<sup>F192</sup>Any relief attributable to any shares in a company held by an individual shall be withdrawn if]—

- (a) the company comes to acquire all of the issued share capital of another company, at any time in the relevant period; and
- (b) any person or group of persons who control or have, at any such time, controlled the company is or are a person or group of persons who, at any such time, controlled that other company;

and that individual is that person or one of those persons.

(4) For the purposes of subsection (2) above—

- (a) the persons to whom a trade belongs and, where a trade belongs to two or more persons, their respective shares in that trade shall be determined in accordance with section 344(1)(a) and (b), (2) and (3); and
- (b) any interest, rights or powers of a person who is an associate of another person shall be treated as those of that other person.

[<sup>F193</sup>(4A) In determining whether any relief attributable to any shares in a company (the “issuing company”) held by a person who—

- (a) is a director of, or of a company which is a partner of, the issuing company or any subsidiary, and
- (b) is in receipt of, or entitled to receive, remuneration as such a director falling within section 291A(5)(a),

is to be withdrawn, the second reference in paragraph (b) of each of subsections (2) and (3) above and, so far as relating to those paragraphs, in subsection (1)(a)(i) above to any time in the relevant period shall be read as a reference to any time before the end of the relevant period.

*Status: Point in time view as at 19/07/2006.*

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(4B) Section 291(4) applies for the purposes of subsection (4A) above as it applies for the purposes of section 291A, and in subsection (4A) above “remuneration” includes any benefit or facility.]

(5) In this section—

[<sup>F194</sup>“subsidiary” means a company which would be a subsidiary if the relevant period for the purposes of section 308 were the period referred to in section 312(1A)(a)]; and

“trade” includes any business, profession or vocation, and references to a trade previously carried on include references to part of such a trade;

[<sup>F195</sup>and section 312(1A)(a) applies to determine the relevant period for the purposes of this section].

#### Textual Amendments

**F191** S. 302(01) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), Sch. 15 para. 16(a)

**F192** Words in s. 302(3) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), Sch. 15 para. 16(b)

**F193** S. 302(4A)(4B) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), Sch. 15 para. 16(c)

**F194** S. 302(5): definition of “subsidiary” substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), Sch. 15 para. 16(d)(i)

**F195** Words in s. 302(5) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), Sch. 15 para. 16(d)(ii)

#### Modifications etc. (not altering text)

**C9** See 1988(F) s.50 and Sch.4 para.9(1), (2) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

**C10** See 1988(F) s.50 and Sch.4 para.9(3) for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

**C11** Definition of “trade”

omitted by 1988(F) Sch.4 para.9(4) where s.50 (changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing) applies.

#### Marginal Citations

**M19** Source-1983 Sch.5 9; 1983 (No.2) Sch.1 6

### 303 Value received by persons other than claimants.

[<sup>F196</sup>(1) Where, in the case of an issue of eligible shares in a company, any relief is attributable to any shares comprised in the issue which are held by an individual, subsection (1A) below shall apply if at any time in the [<sup>F197</sup>period of restriction] the company or any subsidiary—

- (a) repays, redeems or repurchases any of its share capital which belongs to any member other than that individual or a person who falls within subsection (1B) below, or

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- (b) makes any payment to any such member for giving up his right to any of the share capital of the company or subsidiary on its cancellation or extinguishment.

(1A) The relief—

- (a) if it is greater than the amount mentioned in subsection (1C) below, shall be reduced by that amount, and  
 (b) if paragraph (a) above does not apply, shall be withdrawn.

[<sup>F198</sup>(1AA) This section is subject to [<sup>F199</sup>sections 303AA and 303A].]

(1B) A person falls within this subsection if the repayment, redemption, repurchase or payment in question—

- (a) causes any relief attributable to his shares in the company to be withdrawn or reduced by virtue of section 299 or 300(2)(a), or  
 (b) gives rise to a qualifying chargeable event (within the meaning of paragraph 14(4) of Schedule 5B to the 1992 Act) in respect of him [<sup>F200</sup>; or  
 (c) causes any investment relief [<sup>F201</sup>attributable to shares held by that person] (within the meaning of Schedule 15 to the Finance Act 2000) to be withdrawn or reduced by virtue of paragraph 46 (disposal of shares) or 49(1)(a) (repayment etc. of share capital or securities) of that Schedule;]

[<sup>F202</sup>or it would have the effect mentioned in paragraph (a), (b) or (c) above were it not a receipt of insignificant value for the purposes of section 300 above, paragraph 13 of Schedule 5B to the 1992 Act or paragraph 47 of the Finance Act 2000, as the case may be].

(1C) The amount referred to in subsection (1A) above is an amount equal to tax at the lower rate for the year of assessment for which the relief was given—

- (a) where subsection (1) above does not apply in the case of any other individual, on the amount [<sup>F203</sup>received] by the member;  
 (b) where that subsection also applies in the case of one or more other individuals, on the appropriate fraction of that amount;

and subsection (4) of section 299 applies for the purposes of this subsection as it applies for the purposes of subsection (2) of that section.

(1D) In subsection (1C) above “the appropriate fraction” is—

$$\frac{A}{B}$$

where—

A is the amount subscribed by the individual for eligible shares which are comprised in the issue and to which relief is or, but for subsection (1A)(b) above, would be attributable;

B is the aggregate of that amount and the amount or amounts subscribed by the other individual or individuals for such shares.

- (2) Where the repayment, redemption, repurchase or payment mentioned in subsection (1) above falls within [<sup>F204</sup>the applicable periods] for two or more issues of eligible shares in the company, subsection (1A) above shall have effect in relation to each of those



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issues as if the amount receivable by the member were reduced by multiplying it by the fraction—

$$\frac{C}{D}$$

where—

C is the amount subscribed by individuals for eligible shares which are comprised in the issue and to which relief is or, but for subsection (1A)(b) above, would be attributable;

D is the aggregate of that amount and the corresponding amount or amounts for the other issue or issues.]

[<sup>F205</sup>(2A) For the purposes of subsection (2) above “the applicable period” for an issue of eligible shares is—

(a) if the shares were issued before 6th April 2000, the period beginning two years before the issue of the shares and ending immediately before the fifth anniversary of the issue date,

[<sup>F206</sup>(b) if the shares were issued on or after 6th April 2000 but before 7th March 2001, the period beginning two years before the issue of the shares and ending immediately before the termination date relating to those shares,

(c) in any other case, the period of restriction for the issue.]]

(3) <sup>F207</sup> .....

(4) <sup>F207</sup> .....

(5) <sup>F207</sup> .....

(6) <sup>F207</sup> .....

[<sup>F208</sup>(6A) <sup>F207</sup> .....

(7) <sup>F207</sup> .....

(8) <sup>F209</sup> .....

(9) Where—

(a) a company issues share capital (“the original shares”) of nominal value equal to the authorised minimum (within the meaning of the <sup>M20</sup>Companies Act 1985) for the purposes of complying with the requirements of section 117 of that Act (public company not to do business unless requirements as to share capital complied with); and

(b) after the registrar of companies has issued the company with a certificate under section 117, it issues eligible shares;

subsection (1) above shall not apply in relation to any redemption of any of the original shares within 12 months of the date on which those shares were issued.

In relation to companies incorporated under the law of Northern Ireland references in this subsection to the Companies Act 1985 and to section 117 of that Act shall have effect as references to the <sup>M21</sup>Companies (Northern Ireland) Order 1986 and to Article 127 of that Order.

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[<sup>F210</sup>[<sup>F211</sup>(9A) References in this section [<sup>F212</sup>and [<sup>F213</sup>sections 303AA and 303A]] to a subsidiary of a company are references to a company which at any time in the relevant period is a 51 per cent. subsidiary of the first mentioned company, whether or not it is such a subsidiary at the time of the repayment, redemption, repurchase or payment in question  
<sup>F214</sup> . . . .]

(9B) Section 312(1A)(a) applies to determine the relevant period for the purposes of this section.]

(10) <sup>F215</sup> . . . . .

(11) <sup>F215</sup> . . . . .

### Textual Amendments

- F196** S. 303(1)(1A)-(1D)(2) substituted for s. 303(1)-(2) (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 15(1)**
- F197** Words in s. 303(1) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 19(1)**
- F198** S. 303(1AA) inserted (with effect in accordance with s. 63(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 16 para. 2(2)(a)**
- F199** Words in s. 303(1AA) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 19(2)**
- F200** S. 303(1B)(c) and preceding word inserted (with effect in accordance with s. 63(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 16 para. 2(2)(b)**
- F201** Words in s. 303(1B)(c) inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 19(3)(a)**
- F202** Words in s. 303(1B) inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 19(3)(b)**
- F203** Word in s. 303(1C)(a) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 19(4)**
- F204** Words in s. 303(2) substituted (with effect as mentioned in Sch. 17 para. 8 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 5(3)**
- F205** S. 300(2A) inserted (with effect as mentioned in Sch. 17 para. 8 of the amending Act) by Finance Act 2000 (c. 17), s. 64, **Sch. 17 para. 5(4)**
- F206** S. 303(2A)(b)(c) substituted for s. 303(2A)(b) (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 19(5)**
- F207** S. 303(3)-(7) repealed (with effect in accordance with Sch. 15 para. 40(3) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 19(6), **Sch. 33 Pt. 2(3)**, Note 2
- F208** S. 303(6A) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 17(c)**
- F209** S. 303(8) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 17(d), **Sch. 26 Pt. 5(17)**
- F210** S. 303(9A)(9B) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 17(e)**
- F211** S. 303(9A) substituted) (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 15(3)**
- F212** Words in s. 303(9A) inserted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 19(7)**
- F213** Words in s. 303(9A) substituted (with effect in accordance with Sch. 18 para. 7(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 7(1)**
- F214** Words in s. 303(9A) repealed (with effect in accordance with Sch. 15 para. 40(3) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(3)**, Note 2

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**F215** S. 303(10)(11) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), Sch. 15 para. 17(f), [Sch. 26 Pt. 5\(17\)](#)

#### Marginal Citations

**M20** 1985 c. 6.

**M21** S.I. 1986/1032 (N.I. 6)

### [<sup>F216</sup>303AA] Significant repayments disregarded for purposes of s.303(1)

- (1) Any repayment shall be disregarded for the purposes of section 303(1) (repayments etc. which cause withdrawal or reduction of relief) if whichever is the greater of—
- the market value of the shares to which it relates (“the target shares”) immediately before the event occurs, and
  - the amount received by the member in question,
- is insignificant in relation to the market value of the remaining issued share capital of the company in question (or, as the case may be, subsidiary in question) immediately after the event occurs.

This is subject to subsection (4) below.

- (2) For the purposes of this section “repayment” means a repayment, redemption, repurchase or payment mentioned in section 303(1) (repayments etc. which cause withdrawal or reduction of relief).
- (3) For the purposes of subsection (1) above it shall be assumed that the target shares are cancelled at the time the repayment is made.
- (4) Where an individual subscribes for eligible shares in a company, subsection (1) above does not apply to prevent section 303(1) having effect in relation to those shares if, at a relevant time, arrangements are in existence that provide—
- for a repayment by the company or any subsidiary of the company (whether or not it is such a subsidiary at the time the arrangements are made), or
  - for anyone to be entitled to such a repayment,
- at any time in the period of restriction relating to those shares.
- (5) For the purposes of subsection (4) above “a relevant time” means any time in the period—
- beginning one year before the eligible shares were issued, and
  - expiring at the end of the issue date.]

#### Textual Amendments

**F216** S. 303AA inserted (with effect in accordance with [Sch. 15 para. 40\(3\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 20](#)

### [<sup>F217</sup>303A] Restriction on withdrawal of relief under section 303.

- (1) Subsections (4) and (7) below apply where, by reason of a repayment, any investment relief which is attributable under Schedule 15 to the Finance Act 2000 to any shares is withdrawn under paragraph 56(2) of that Schedule.

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- [<sup>F218</sup>(2) For the purposes of this section “repayment” has the meaning given in section 303AA(2) above.]
- (3) For the purposes of this section “the relevant amount” is the amount determined by the formula—

$$X - 5Y$$

Where—

X is the amount of the repayment, and

Y is the aggregate amount of investment relief withdrawn by reason of the repayment.

- (4) Where the relevant amount does not exceed £1,000 the repayment shall be disregarded for the purposes of section 303(1), unless repayment arrangements are in existence at any time in the period—
- (a) beginning one year before the shares mentioned in subsection (1) above are issued, and
  - (b) expiring at the end of the issue date of those shares.
- (5) For this purpose “repayment arrangements” means arrangements which provide—
- (a) for a repayment by the company that issued the shares (“the issuing company”) or any subsidiary of that company, or
  - (b) for anyone to be entitled to such a repayment,
- at any time.
- (6) Subsection (5)(a) above applies in relation to a subsidiary of the issuing company whether or not it is such a subsidiary—
- (a) <sup>F219</sup> .....
  - (b) when the arrangements were made.
- (7) Where the repayment is not disregarded by virtue of subsection (4) above, the amount receivable by reason of the repayment shall be treated for the purposes of section 303(1C)(a) as an amount equal to the relevant amount.
- (8) <sup>F220</sup> .....
- (9) In this section—
- (a) “investment relief” has the same meaning as in [<sup>F221</sup>Schedule 15 to the Finance Act 2000 (corporate venturing scheme)]; and
  - (b) references to the withdrawal of investment relief include its reduction.]

**Textual Amendments**

**F217** S. 303A inserted (with effect in accordance with s. 63(4) of the amending Act) by Finance Act 2000 (c. 17), Sch. 16 para. 2(3)

**F218** S. 303A(2) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), Sch. 15 para. 21(a)

**F219** S. 303A(6)(a) repealed (with effect in accordance with Sch. 18 para. 8(2) of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 8(1), Sch. 42 Pt. 2(13), Note 1

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- F220** S. 303A(8) repealed (with effect in accordance with Sch. 15 para. 40(3) of the repealing Act) by Finance Act 2001 (c. 9), Sch. 15 para. 21(b), **Sch. 33 Pt. 2(3)**, Note 2
- F221** Words in s. 303A(9)(a) substituted (with effect in accordance with Sch. 15 para. 40(3) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 21(c)**

### [<sup>F222</sup>304 [<sup>F223</sup>Spouses and civil partners.]

- (1) Section 299(1) shall not apply to a disposal of shares to which an amount of relief is attributable made by [<sup>F224</sup>an individual to his spouse or civil partner] at a time when they are living together.
- (2) Where such shares issued to one of them (“the transferor”) are transferred to the other (“the transferee”) by a transaction inter vivos to which that section does not apply, this Chapter shall have effect, in relation to any subsequent disposal or other event, as if—
  - (a) the transferee were the person who had subscribed for the shares,
  - (b) the transferee’s liability to income tax had been reduced under section 289A in respect of those shares for the same year of assessment as that for which the transferor’s liability was so reduced and, accordingly, that amount of relief had continued to be attributable to the shares notwithstanding the transfer.
- (3) Any assessment for reducing or withdrawing the relief by reason of any such disposal or other event shall be made on the transferee.
- [<sup>F225</sup>(4) Subsections (6) to (6D) of section 299 shall apply for the purposes of this section as they apply for the purposes of that section.]]

#### Textual Amendments

- F222** S. 304 substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 18**
- F223** S. 304 heading substituted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), **regs. 1(1)**, 65(c)
- F224** Words in s. 304(1) substituted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), **regs. 1(1)**, 65(b); and that same substitution of words is made in s. 304(5) (as s. 304 applies to shares issued on or before 31.12.1993) (5.12.2005) by reg. 65(a) of that amending S.I.
- F225** S. 304(4) inserted (with effect in accordance with s. 74(3), **Sch. 13 para. 16(2)** of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 16(1)**; and see also the s. 304(7) inserted (with effect in accordance with s. 74(3), **Sch. 13 para. 40(2)** of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 paras. 37, 40(1)**

### [<sup>F226</sup>304A Acquisition of share capital by new company.

- (1) This section applies where—
  - (a) a company (“the new company”) in which the only issued shares are subscriber shares acquires all the shares (“old shares”) in another company (“the old company”);
  - (b) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company;
  - (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description;

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- (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;
  - (e) at some time before the issue of the new shares—
    - (i) the old company issued eligible shares; and
    - (ii) a certificate in relation to those eligible shares was issued by that company for the purposes of subsection (2) of section 306 and in accordance with that section; and
  - (f) before the issue of the new shares, the Board have, on the application of the new company or the old company, notified that company that the Board are satisfied that the exchange of shares—
    - (i) will be effected for bona fide commercial reasons; and
    - (ii) will not form part of any such scheme or arrangements as are mentioned in section 137(1) of the 1992 Act.
- (2) For the purposes of this Chapter—
- (a) the exchange of shares shall not be regarded as involving any disposal of the old shares or any acquisition of the new shares; and
  - (b) any relief under this Chapter which is attributable to any old shares shall be attributable instead to the new shares for which they are exchanged.
- (3) Where, in the case of any new shares held by an individual to which relief becomes so attributable, the old shares for which they are exchanged were subscribed for by and issued to the individual, this Chapter shall have effect as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for by him;
  - (b) the new shares had been issued to him by the new company at the time when the old shares were issued to him by the old company;
  - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares; and
  - (d) his liability to income tax had been reduced under section 289A in respect of the new shares for the same year of assessment as that for which his liability was so reduced in respect of the old shares.
- (4) Where, in the case of any new shares held by an individual to which relief becomes so attributable, the old shares for which they are exchanged were transferred to the individual as mentioned in section 304, this Chapter shall have effect in relation to any subsequent disposal or other event as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for;
  - (b) the new shares had been issued by the new company at the time when the old shares were issued by the old company;
  - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares; and
  - (d) his liability to income tax had been reduced under section 289A in respect of the new shares for the same year of assessment as that for which the liability of the individual who subscribed for the old shares was so reduced in respect of those shares.
- (5) Where relief becomes so attributable to any new shares—
- (a) this Chapter shall have effect as if anything which, under section 306(2), 307(1A) or 310, has been done, or is required to be done, by or in relation to

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- the old company had been done, or were required to be done, by or in relation to the new company; and
- (b) any appeal brought by the old company against a notice under section 307(1A) (b) may be prosecuted by the new company as if it had been brought by that company.
- (6) For the purposes of this section old shares and new shares are of a corresponding description if, on the assumption that they were shares in the same company, they would be of the same class and carry the same rights; and in subsection (1) above references to shares, except in the expressions “eligible shares” and “subscriber shares”, include references to securities.
- (7) Nothing in section 293(8) shall apply in relation to such an exchange of shares, or shares and securities, as is mentioned in subsection (1) above or arrangements with a view to such an exchange.
- (8) Subsection (2) of section 138 of the 1992 Act shall apply for the purposes of subsection (1)(f) above as it applies for the purposes of subsection (1) of that section.]

#### Textual Amendments

**F226** S. 304A inserted (with effect in accordance with s. 74(3), Sch. 13 para. 17(2) of the amending Act) by Finance Act 1998 (c. 36), Sch. 13 para. 17(1); and see also the s. 304A inserted (with effect in accordance with s. 74(3), Sch. 13 para. 41(2) of the amending Act) by Finance Act 1998 (c. 36), Sch. 13 paras. 37, 41(1)

#### <sup>F227</sup>305 Reorganisation of share capital.

- (1) Subsection (2) below applies where—
- (a) there is by virtue of any allotment in the relevant period, being such an allotment for payment as is mentioned in section 126(2)(a) of the 1992 Act, a reorganisation affecting ordinary shares,
- (b) immediately before the reorganisation an amount of relief (“X”) is attributable to the shares, and
- (c) both—
- (i) the amount subscribed for the shares (“Z”), and
- (ii) the market value of the shares immediately before the reorganisation, exceed the market value of the shares immediately after the reorganisation.
- (2) Where this subsection applies, the relief attributable to the shares shall be reduced by the following amount—

$$\frac{X \times Y}{Z}$$

where “Y” is whichever is the smaller of the amounts by which Z, and the market value of the shares immediately before the reorganisation, exceed the market value of the shares immediately after the reorganisation.

- (3) Subsection (2) above also applies where—



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- (a) an individual, who at any time in the relevant period has received, or become entitled to receive, in respect of any ordinary shares in a company, a provisional allotment of shares in or debentures of the company, disposes of his rights, and
  - (b) that subsection would have applied if he had not disposed of the rights but the allotment had been made to him by virtue of those rights.
- (4) Section 312(1A)(a) applies to determine the relevant period for the purposes of this section
- [<sup>F228</sup>(5) Subsection (2) above shall not apply where the reorganisation occurs on or after 29th November 1994.
- (6) Subsection (2) above shall not apply by virtue of subsection (3) above where the rights are disposed of on or after 29th November 1994.]]

#### Textual Amendments

- F227** S. 305 substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 19](#)
- F228** S. 305(5)(6) inserted (with effect in accordance with ss. 66(1), 68(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [ss. 66\(4\)](#), [68\(3\)](#)

#### [<sup>F229</sup>**305A** Relief for loss on disposal of shares.

- (1) Section 574 shall apply on the disposal by an individual of shares to which relief is attributable as it applies to a disposal by him of shares in a qualifying trading company for which he has subscribed (“qualifying trading company” and “subscribed” having for this purpose the same meaning as in that section).
- (2) For the purposes of that section (as applied by this) sections 575(1) and (3) and [<sup>F230</sup>576(1) to (3)] shall apply]

#### Textual Amendments

- F229** S. 305A inserted (with effect in accordance with s. 137(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 137(1), [Sch. 15 para. 20](#)
- F230** Words in s. 305A(2) substituted (with effect in accordance with s. 74(3), [Sch. 13 para. 18\(2\)](#) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 18\(1\)](#)

#### **306** Claims.

- <sup>M22</sup>(1) A claim for relief in respect of eligible shares issued by a company in any year of assessment [<sup>F231</sup>(or treated by section 289B(5) as so issued)] shall be made—
- [<sup>F232</sup>(a) not earlier than the time the requirement in section 289A(6) is first satisfied; and]
  - [<sup>F233</sup>(b) not later than the fifth anniversary of the 31st January next following that year of assessment].
- (2) [<sup>F234</sup>No claim for relief in respect of eligible shares in a company may be made unless the person making the claim has received from the company] a certificate issued by the company in such form as the Board may direct and certifying that [<sup>F235</sup>, except so

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far as they fall to be satisfied by that person, the conditions for the relief] are satisfied in relation to those shares.

[<sup>F236</sup>(3) Before issuing a certificate for the purposes of subsection (2) above a company shall furnish the inspector with a statement to the effect that, except so far as they fall to be satisfied by the persons to whom eligible shares comprised in the share issue have been issued, the conditions for the relief—

- (a) are satisfied in relation to that issue; and
- (b) have been so satisfied at all times since the beginning of the relevant period.]

[<sup>F237</sup>(3A) A company may not furnish an inspector with a statement in respect of any shares issued in any year of assessment—

- (a) later than two years after the end of that year of assessment, or
- (b) if the period of four months referred to in subsection (1)(a) above ended after the end of that year, later than two years after the end of that period

<sup>F238</sup> .....

[<sup>F239</sup>(4) No certificate shall be issued for the purposes of subsection (2) above without the authority of the inspector; but where the company, or a person connected with the company, has given notice to the inspector under section 310(2) or paragraph 16(2) or (4) of Schedule 5B to the 1992 Act, the authority must be given or renewed after the receipt of the notice.

(5) Any statement under subsection (3) above shall be in such form as the Board may direct and shall contain—

- (a) such additional information as the Board may reasonably require, including in particular information relating to the persons who have requested the issue of certificates under subsection (2) above;
- (b) a declaration that the statement is correct to the best of the company's knowledge and belief; and
- (c) such other declarations as the Board may reasonably require.]

(6) Where a company has issued a certificate for the purposes of subsection (2) above, or furnished a statement under subsection (3) above and—

- (a) the certificate or statement is made fraudulently or negligently; or
- (b) the certificate was issued in contravention of subsection (4) above;

the company shall be liable to a penalty not exceeding [<sup>F240</sup>£3,000].

(7) For the purposes of regulations made under [<sup>F241</sup>PAYE regulations] no regard shall be had to the relief unless a claim for it has been duly made and admitted.

(8) No application shall be made under section 55(3) or (4) of the Management Act (application for postponement of payment of tax pending appeal) on the ground that the applicant is [<sup>F242</sup>eligible for] the relief unless a claim for the relief has been duly made by him.

(9) For the purposes of section 86 of the Management Act (interest on overdue tax), tax charged by an assessment—

- (a) shall be regarded as due and payable notwithstanding that relief from the tax (whether by discharge or repayment) is subsequently given on a claim for the relief; but
- (b) shall, unless paid earlier or due and payable later, be regarded as paid on the date of the making of the claim on which the relief is given;

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and section 91 of that Act (effect on interest of reliefs) shall not apply in consequence of any discharge or repayment for giving effect to the relief.

- (10)<sup>M23</sup> For the purposes of the provisions of the Management Act relating to appeals against decisions on claims, the refusal of the inspector to authorise the issue of a certificate under subsection (2) above shall be taken to be a decision refusing a claim made by the company.

F243 .....

- [<sup>F244</sup>(11) Section 312(1A)(b) applies to determine the relevant period for the purposes of this section.]

#### Textual Amendments

- F231** Words in s. 306(1) inserted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 19\(1\)](#)
- F232** S. 306(1)(a) substituted (with effect in accordance with [Sch. 15 para. 22\(2\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 22\(1\)](#)
- F233** S. 306(1)(b) substituted (with effect in as mentioned in s. 135(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 7](#)
- F234** Words in s. 306(2) substituted (with effect in as mentioned in s. 134(2)(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 22](#)
- F235** Words in s. 306(2) substituted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 19\(2\)](#)
- F236** S. 306(3) substituted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 19\(3\)](#)
- F237** S. 306(3A) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 21\(b\)](#)
- F238** Words in s. 306(3A) repealed (with effect as mentioned in s. 74(3), [Sch. 27 Pt. 3\(14\)](#) Note 4 of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 19\(4\)](#), [Sch. 27 Pt. 3\(14\)](#)
- F239** S. 306(4)(5) substituted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 19\(5\)](#)
- F240** 1989 s.170(3) *in relation to things done or omitted on or after 27 July 1989. Previously* “£250 or, in the case of fraud, £500.”
- F241** Words in s. 306(7) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 37](#) (with [Sch. 7](#))
- F242** Words in s. 306(8) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 21\(c\)](#)
- F243** Words in s. 306(10) repealed (with effect as mentioned in s. 137(1)(2), [Sch. 26 Pt. 5\(17\)](#) Note of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 21\(d\)](#), [Sch. 26 Pt. 5\(17\)](#)
- F244** S. 306(11) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 21\(e\)](#)

#### Modifications etc. (not altering text)

- C12** S. 306 applied (with effect as mentioned in s. 74(3) of the 1998 amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), [Sch. 5B para. 6](#) (as substituted by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 33](#))
- C13** S. 306(1)(b) modified (1991-92) by [The Lloyd's Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), regs. 1, 9, [Sch. 2](#)
- C14** S. 306(1)(b) modified (1992-93, 1993-94 and 1994-5) by [The Lloyd's Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1, 14, 15, [Sch.](#)

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**C15** See 1988(F) s.50 and Sch.4 para.10 for changes applicable in respect of shares issued on or after 29 July 1988 and before the end of 1993 in respect of private rented housing.

#### Marginal Citations

**M22** Source-1983 Sch.5 13(1)-(9); 1981 s.61(6)

**M23** Source-1983 Sch.5 13(10); 1986 Sch.9 1(2), 13

### 307 Withdrawal of relief.

- (1) <sup>M24</sup>Where any relief has been given which is subsequently found not to have been due, it shall be withdrawn by the making of an assessment [<sup>F245</sup>to income tax] for the year of assessment for which the relief was given <sup>F246</sup> . . . .
- <sup>F247</sup>(1A) Relief may not be withdrawn, in relation to shares issued by a company on any date, on the ground that the company is not a qualifying company or that the requirements of [<sup>F248</sup>section 289(1)(b), (ba), (c) or (d)] are not met unless—
- (a) the company has given notice under section 310 [<sup>F249</sup>or paragraph 16(2) or (4) of Schedule 5B to the 1992 Act], or
  - (b) an inspector has given notice to the company stating that, by reason of that ground, the whole or any part of the relief given to individuals to whom the shares were issued on that date was not, in his opinion, due.
- (1B) The giving of notice by an inspector under subsection (1A) above shall be taken, for the purposes of the provisions of the Management Act relating to appeals against decisions on claims, to be a decision refusing a claim made by the company.
- <sup>F250</sup>(1C) Where any issue has been determined on an appeal brought by virtue of paragraph 1A(6) of Schedule 5B to the 1992 Act (appeal against notice that shares never have been, or have ceased to be, eligible shares), the determination shall be conclusive for the purposes of any appeal brought by virtue of subsection (1B) above on which that issue arises.]
- (2) Subject to subsections (3) to (7) below, no assessment for withdrawing relief may be made, and no notice may be given under subsection (1A) above, more than six years after the end of the year of assessment—
- (a) in which the time mentioned in section 289(3) falls, or
  - (b) in which the event by reason of which the claimant ceases to be eligible for relief occurs,
- whichever is the later]
- (3) No assessment for withdrawing relief in respect of shares issued to any person shall be made by reason of any event occurring after his death.
- (4) Where a person has, by a disposal or disposals to which section 299(1)(b) applies, disposed of all the [<sup>F251</sup>eligible shares] issued to him by a company, no assessment for withdrawing relief in respect of any of those shares shall be made by reason of any subsequent event unless it occurs at a time when he is connected with the company within the meaning of section 291.
- (5) Subsection (2) above is without prejudice to section 36 of the Management Act (<sup>F252</sup>fraudulent or negligent conduct)].

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- (6) In its application to an assessment made by virtue of this section, section 86 of the Management Act (interest on overdue tax) shall have effect as if [<sup>F253</sup>the relevant date] were—
- (a) <sup>M25</sup>in the case of relief withdrawn by virtue of section [<sup>F254</sup>289(6)] [<sup>F255</sup>or 299B(1)]—
- (i) so far as effect has been given to the relief in accordance with [<sup>F256</sup>PAYE regulations], 5th April in the year of assessment in which effect was so given;
- (ii) so far as effect has not been so given, the date on which the relief was granted.
- [<sup>F257</sup>(aa) in the case of relief withdrawn by virtue of [<sup>F258</sup>section 289(1)(c) or (d)], the date on which the relief was granted]
- (b) <sup>M26</sup>in the case of relief withdrawn by virtue of [<sup>F259</sup>section 289(1)(ba), 291], 293, 297, 302, 303(1) or 305 in consequence of any event after the grant of the relief, the date of that event;
- (c) in the case of relief withdrawn by virtue of section 299(1) in consequence of a disposal after the grant of the relief, the date of the disposal;
- [<sup>F260</sup>(cca) in the case of relief withdrawn by virtue of section 299(5), the date on which the option was granted]
- [<sup>F261</sup>(ca) in the case of relief withdrawn by virtue of section 299A in consequence of the making of any loan after the grant of the relief, the date of the making of the loan;]
- (d) in the case of relief withdrawn by virtue of section 300 in consequence of a receipt of value after the grant of the relief, the date of the receipt.
- (7) <sup>M27</sup>For the purposes of subsection (6) above the date on which the relief is granted is the date on which a repayment of tax for giving effect to the relief was made or, if there was no such repayment, the date on which the inspector issued a notice to the claimant showing the amount of tax payable after giving effect to the relief.
- [<sup>F262</sup>(8A) References in this section to the withdrawal of relief include its reduction]
- (8) <sup>M28</sup>Where a company has ceased to be a qualifying company in consequence of the operation of section 294, subsection (6) above shall apply as if the relief was withdrawn in consequence of an event which occurred at the time when the company so ceased to be a qualifying company.
- (9) <sup>F263</sup> .....

#### Textual Amendments

- F245** Words in s. 307(1) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 127** (with **Sch. 2**)
- F246** Words in s. 307(1) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by *Finance Act 1994 (c. 9)*, **Sch. 15 para. 22(a)**, **Sch. 26 Pt. 5(17)**
- F247** *S. 307(1A)(1B)(2)* substituted for s. 307(2) (with effect as mentioned in s. 137(1)(2) of the amending Act) by *Finance Act 1994 (c. 9)*, **Sch. 15 para. 22(b)**
- F248** Words in s. 307(1A) substituted (with effect as mentioned in **Sch. 15 para. 40(2)** of the amending Act) by *Finance Act 2001 (c. 9)*, **Sch. 15 para. 7(a)**
- F249** Words in s. 307(1A) inserted (with effect as mentioned in s. 74(3) of the amending Act) by *Finance Act 1998 (c. 36)*, **Sch. 13 para. 20(1)(b)**

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- F250** S. 307(1C) inserted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 20(2)**
- F251** Words in s. 307(4) substituted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 20(3)**
- F252** 1989 s.149(4)(b) *but does not affect the making of assessments for years before 1983-84 or for accounting periods ending before 1 April 1983. Previously* “fraud and wilful default) and section 37 of that Act (neglect.”.
- F253** Words in s. 307(6) substituted (with effect as mentioned in Sch. 18 para. 17(3) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 18 para. 5**
- F254** Words in s. 307(6)(a) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 22(c)(i)**
- F255** Words in s. 307(6)(a) inserted (with effect as mentioned in s. 71(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 71(2)**
- F256** Words in s. 307(6)(a)(i) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 38** (with Sch. 7)
- F257** S. 307(6)(aa) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 22(c)(ii)**
- F258** Words in s. 307(6)(aa) substituted (with effect as mentioned in Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 7(b)**
- F259** Words in s. 307(6)(b) substituted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 20(4)**
- F260** S. 307(6)(cca) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 22(c)(iii)**
- F261** S. 307(6)(ca) inserted (27.7.1993 with application in relation to any case in which the claim for relief is made on or after 16.3.1993) by 1993 c. 34, **s. 111(3)(4)**
- F262** S. 307(8A) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 22(d)**
- F263** S. 307(9) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 22(e), **Sch. 26 Pt. 5(17)**

**Marginal Citations**

- M24** Source-1983 Sch.5 14(1), (1A); 1987 s.42(5)
- M25** Source-1981 s.62(6)(d); 1983 Sch.5 14(2)
- M26** Source-1981 s.62(6)(a)-(c); 1983 Sch.5 14(2); 1983 Sch.1 8; 1986 Sch.9 14
- M27** Source-1981 s.62(7)
- M28** Source-1983 Sch.5 5A(10); 1986 Sch.9 7

**308 Application to subsidiaries.**

- <sup>M29</sup>(1) A qualifying company may, in the relevant period, have one or more subsidiaries if—
  - (a) the conditions mentioned in subsection (2) below are satisfied in respect of the subsidiary or, as the case may be, each subsidiary <sup>F264</sup> . . . . ; <sup>F265</sup> . . . .
  - (b) <sup>F265</sup> . . . . .
- (2) The conditions referred to are—
  - (a) <sup>F266</sup> . . . . .
  - (b) <sup>F266</sup> . . . . .
  - (c) <sup>F266</sup> . . . . .
  - [<sup>F267</sup>(ca) that more than 50 per cent. of the ordinary share capital of the subsidiary is owned directly or indirectly by the qualifying company;]

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- (d) that no person other than the qualifying company or another of its subsidiaries has control of the subsidiary within the meaning of section 840; and
- (e) that no arrangements are in existence by virtue of which [<sup>F268</sup>either of the conditions in paragraphs (ca) and ](d) above [<sup>F268</sup>would] cease to be satisfied.
- (3) The conditions shall not be regarded as ceasing to be satisfied by reason only of the subsidiary or [<sup>F269</sup>any other company] being wound up, or dissolved without winding up, if—
- (a) <sup>F270</sup> . . . the winding up or dissolution is for bona fide commercial reasons [<sup>F271</sup>and is not] part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax; <sup>F272</sup> . . .
- (b) <sup>F272</sup> . . . . .
- [<sup>F273</sup>(3A) The conditions shall not be regarded as ceasing to be satisfied by reason only of anything done as a consequence of the subsidiary or any other company being in administration or receivership if—
- (a) the entry into administration or receivership, and
- (b) everything done as a consequence of the company concerned being in administration or receivership,
- is for bona fide commercial reasons and is not part of a scheme or arrangement the main purpose of which or one of the main purposes of which is the avoidance of tax.]
- (4) The conditions shall not be regarded as ceasing to be satisfied by reason only of [<sup>F274</sup>arrangements being in existence for] the disposal by the qualifying company or (as the case may be) by another subsidiary, <sup>F275</sup> . . . of all its interest in the subsidiary if <sup>F275</sup> . . . the disposal is [<sup>F276</sup>to be] for bona fide commercial reasons [<sup>F277</sup>and is not to be] part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (5) <sup>F278</sup> . . . . .
- [<sup>F279</sup>(5A) Section 312(1A)(b) applies to determine the relevant period for the purposes of this section.]
- [<sup>F280</sup>(5B) Subsections (2) to (10) of section 838 apply for the purposes of subsection (2)(ca) above as they apply for the purposes of subsection (1) of that section.]
- (6) <sup>F281</sup> . . . . .

#### Textual Amendments

- F264** Words in s. 308(1) repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 9(a), **Sch. 42 Pt. 2(13)**, Note 6
- F265** S. 308(1)(b) and preceding word repealed (with effect as mentioned in Sch. 8 para. 1 of the repealing Act) by Finance Act 1997 (c. 16), Sch. 8 para. 6(a), **Sch. 18 Pt. 6**, Note
- F266** S. 308(2)(a)-(c) repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 9(b)(i), **Sch. 42 Pt. 2(13)**, Note 6
- F267** S. 308(2)(ca) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(b)(ii)**
- F268** Words in s. 308(2)(e) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(b)(iii)**
- F269** Words in s. 308(3) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(c)**



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- F270** Words in s. 308(3)(a) repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 9(d)(i), **Sch. 42 Pt. 2(13)**, Note 6
- F271** Words in s. 308(3)(a) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(d)(ii)**
- F272** S. 308(3)(b) and preceding word repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 9(e), **Sch. 42 Pt. 2(13)**, Note 6
- F273** S. 308(3A) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(f)**
- F274** Words in s. 308(4) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(g)(i)**
- F275** Words in s. 308(4) repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 9(g)(ii)(iii), **Sch. 42 Pt. 2(13)**, Note 6
- F276** Words in s. 308(4) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(g)(iv)**
- F277** Words in s. 308(4) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(g)(v)**
- F278** S. 308(5) repealed (with effect in accordance with Sch. 18 para. 21 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 18 para. 9(h), **Sch. 42 Pt. 2(13)**, Note 6
- F279** S. 308(5A) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 23(a)**
- F280** S. 308(5B) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 9(i)**
- F281** S. 308(6) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 23(b), **Sch. 26 Pt. 5(17)**

#### Marginal Citations

**M29** Source-1983 Sch.5 17(1)-(10); 1986 Sch.9 18; 1987 Sch.15 15(2)

### 309 Further provisions as to subsidiaries.

**F282** .....

#### Textual Amendments

**F282** S. 309 repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 24, **Sch. 26 Pt. 5(17)**

### 310 Information.

- (1) <sup>M30</sup>Where an event occurs by reason of which any relief given to an individual falls to be withdrawn by virtue of sections 291, 299, [<sup>F283</sup>299A or 300], [<sup>F284</sup>or would fall to be withdrawn under section 300 were it not for the application of section 300A,] the individual shall within 60 days of his coming to know of the event give a notice to the inspector containing particulars of the event.
- (2) Where an event occurs by reason of which any relief in respect of any shares in a company falls to be withdrawn by virtue of section [<sup>F285</sup>[<sup>F286</sup>289(1)(ba), (c) or (d)], 293], 300, 302 or 303 [<sup>F287</sup>, or would fall to be withdrawn under section 300 were it not for the application of section 300A,]—
  - (a) the company; and
  - (b) any person connected with the company who has knowledge of that matter;

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shall within 60 days of the event or, in the case of a person within paragraph (b) above, of his coming to know of it, give a notice to the inspector containing particulars of the event <sup>F288</sup> . . . .

[<sup>F289</sup>(2A) Where—

- (a) a person is required to give notice under subsection (1) or (2) above of an event by reason of which any relief in respect of any shares in a company—
  - (i) falls to be withdrawn under section 300, or
  - (ii) would fall to be so withdrawn were it not for the application of section 300A, and
- (b) that person has knowledge of the replacement value received (or expected to be received) from the original recipient by the original supplier by reason of a qualifying receipt,

the notice shall include particulars of that receipt of the replacement value (or expected receipt).

In this subsection “the replacement value”, “the original recipient”, “the original supplier” and “qualifying receipt” shall be construed in accordance with section 300A.]

(3) <sup>M31</sup>Where—

- (a) a company has issued a certificate under section 306(2) in respect of any eligible shares in the company; and
- (b) it appears to the company, or to any person connected with the company who has knowledge of the matter, that section 294 may have effect to deny relief in respect of those shares;

the company or (as the case may be) that person or (where it so appears to each of them) both the company and that person shall give notice to the inspector setting out the particulars of the case.

(4) <sup>M32</sup>If the inspector has reason to believe—

- [<sup>F290</sup>(a)] that a person has not given a notice which he is required to give under subsection (1) or (2) above in respect of any event, or under subsection (3) above in respect of any particular case [<sup>F291</sup>, or
- (b) that a person has given or received value (within the meaning of section 300(2) or (5)) which, but for the fact that the amount given or received was an amount of insignificant value (within the meaning of section 301A(2)), would have triggered a requirement to give a notice under subsection (1) or (2) above, or
- (c) that a person has made or received any repayment (within the meaning of section 303AA(2)) which, but for the fact that it falls to be disregarded for the purposes of section 303(1) by virtue of section 303AA(1), would have triggered a requirement to give a notice under subsection (2) above,

the inspector may] by notice require that person to furnish him within such time (not being less than 60 days) as may be specified in the notice with such information relating to the event or case as the inspector may reasonably require for the purposes of this Chapter.

(5) <sup>M33</sup>Where relief is claimed in respect of shares in a company and the inspector has reason to believe that it may not be due by reason of any such arrangement or scheme as is mentioned in section [<sup>F292</sup>[<sup>F293</sup>289(1D), (6) or (9)(e), 289A(8)(b) or (8A),] 291B(5)], [<sup>F294</sup>293(4B), (6) or (8), ] [<sup>F295</sup>299B(1)] [<sup>F296</sup>or 308(2)(e), (3), (3A) or (4)], he may by

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notice require any person concerned to furnish him within such time (not being less than 60 days) as may be specified in the notice with—

- (a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed;
- (b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.

[<sup>F297</sup>(6) For the purposes of subsection (5) above the persons who are persons concerned are—

- (a) in relation to section 289(6) [<sup>F298</sup>or 293(4B) or (6)], the claimant, the company and any person controlling the company;
- [<sup>F299</sup>(aa) in relation to section 289(1D), 289A(8)(b) or (8A) or 308(3), (3A) or (4), the claimant, the company, any other company in question and any person controlling the company or any other company in question;]
- (b) in relation to section 291B(5), the claimant;
- (c) in relation to section [<sup>F300</sup>289(9)(e),] 293(8) or 308(2)(e), the company and any person controlling the company; and
- (d) in relation to section 299B(1), the claimant, the company and any person connected with the company;

and for those purposes references in this subsection to the claimant include references to any person to whom the claimant appears to have made a transfer such as is mentioned in section 304(1) of any of the shares in question.]

[<sup>F301</sup>(6A) The references in subsections (5) and (6) above to subsections (3), (3A) and (4) of section 308 are to be read as including those provisions as applied by section 289(10) and (11).]

- (7) <sup>M34</sup>Where relief has been given in respect of shares in a company—
  - (a) any person who receives from the company any payment or asset which may constitute value received (by him or another) for the purposes of sections [<sup>F302</sup>300 and 303(3)]; and
  - (b) any person on whose behalf such a payment or asset is received,

shall, if so required by the inspector, state whether the payment or asset received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.

- (8) Where relief has been claimed in respect of shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself and, if so, the name and address of that person.

- (9) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.

[<sup>F303</sup>(9A) References in this section to withdrawal of relief include its reduction.]

<sup>F304</sup>(10) .....

<sup>F304</sup>(11) .....

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### Textual Amendments

- F283** Words in s. 310(1) substituted (with effect in accordance with s. 74(3), Sch. 13 para. 22(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 22(1)**
- F284** Words in s. 310(1) inserted (with effect in accordance with Sch. 15 para. 23(5) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 23(1)**
- F285** Words in s. 310(2) substituted (with effect in accordance with s. 74(3), Sch. 13 para. 22(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 22(2)(a)**
- F286** Words in s. 310(2) substituted (with effect in accordance with Sch. 15 para. 40(2) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 8**
- F287** Words in s. 310(2) inserted (with effect in accordance with Sch. 15 para. 23(5) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 23(2)**
- F288** Words in s. 310(2) repealed (with effect in accordance with s. 74(3), Sch. 13 para. 22(5), Sch. 27 Pt. 14 Note 1 of the repealing Act) by Finance Act 1998 (c. 36), Sch. 13 para. 22(2)(b), **Sch. 27 Pt. 14**
- F289** S. 310(2A) inserted (with effect in accordance with Sch. 15 para. 23(5) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 23(3)**
- F290** Word in s. 310(4) inserted (with effect in accordance with Sch. 15 para. 23(5) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 23(4)**
- F291** S. 310(4)(b)(c) and words substituted for words in s. 310(4) (with effect in accordance with Sch. 15 para. 23(5) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 15 para. 23(4)**
- F292** Words in s. 310(5) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 25(c)**
- F293** Words in s. 310(5) substituted (with effect in accordance with Sch. 18 para. 10(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 10(1)(a)(i)**
- F294** Words in s. 310(5) substituted (with effect in accordance with Sch. 18 para. 10(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 10(1)(a)(ii)**
- F295** Words in s. 310(5) inserted (with effect in accordance with s. 71(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 71(3)**
- F296** Words in s. 310(5) substituted (with effect in accordance with Sch. 18 para. 10(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 10(1)(a)(iii)**
- F297** S. 310(6) substituted (with effect in accordance with s. 71(5) of the amending Act) by Finance Act 1998 (c. 36), **s. 71(4)**
- F298** Words in s. 310(6)(a) inserted (with effect in accordance with Sch. 18 para. 10(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 10(1)(b)(i)**
- F299** S. 310(6)(aa) inserted (with effect in accordance with Sch. 18 para. 10(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 10(1)(b)(ii)**
- F300** Words in s. 310(6)(c) inserted (with effect in accordance with Sch. 18 para. 10(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 10(1)(b)(iii)**
- F301** S. 310(6A) inserted (with effect in accordance with Sch. 18 para. 10(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 10(1)(c)**
- F302** Words in s. 310(7) substituted (with effect in accordance with s. 74(3), Sch. 13 para. 22(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 22(3)**
- F303** S. 310(9A) inserted (with effect in accordance with s. 74(3), Sch. 13 para. 22(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 22(4)**
- F304** S. 310(10)(11) repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by Finance Act 1994 (c. 9), Sch. 15 para. 25(e), **Sch. 26 Pt. 5(17)**

### Marginal Citations

- M30** Source-1983 Sch.5 15(1), (2)
- M31** Source-1983 Sch.5 15A(1); 1986 Sch.9 15
- M32** Source-1983 Sch.5 15(3), 15A(2); 1986 Sch.9 15
- M33** Source-1983 Sch.5 15(4), (5), 18(4); 1986 Sch.9 19(2)

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**M34** Source-1981 s.63(7)-(9); 1983 Sch.5 15(6)

### **311 Nominees, bare trustees and approved investment funds.**

(1) <sup>M35</sup>Shares subscribed for, issued to, held by or disposed of for an individual by a nominee shall be treated for the purposes of this Chapter as subscribed for, issued to, held by or disposed of by that individual.

(2) [<sup>F305M36</sup>Where eligible shares are held on a bare trust for two or more beneficiaries], this Chapter shall have effect (with the necessary modifications) as if—

- (a) each beneficiary had subscribed as an individual for all of those shares; and
- (b) the amount subscribed by each beneficiary was equal to the total amount subscribed on the issue of those shares divided by the number of beneficiaries.

[<sup>F306</sup>(2A) Subsection (2B) below applies where an individual claims relief in respect of eligible shares in a company and—

- (a) the shares have been issued to the managers of an approved fund as nominee for the individual;
- (b) the fund has closed, that is to say, no further investments in the fund are to be accepted; and
- (c) the amounts which the managers have, as nominee for the individual, subscribed for eligible shares issued within six months after the closing of the fund represent not less than 90 per cent. of his investment in the fund;

and in this section “the managers of an approved fund” means the person or persons having the management of an investment fund approved for the purposes of this section by the Board.

(2B) [<sup>F307</sup>In any case where this subsection applies, sections 289A and 289B shall have effect as if]—

- (a) any reference to the year of assessment or other period in which the shares are issued were a reference to the year of assessment or other period in which the fund closes; and
- (b) any reference to the time of the issue of the shares, or the time of the subscription for the shares, were a reference to the time of the closing of the fund.

(3) Section 290(1) shall not apply where the amount is subscribed as nominee for an individual by the managers of an approved fund.]

(4) Where an individual claims relief in respect of eligible shares in a company which have been issued to the managers of an approved fund as nominee for that individual, section 306(2) shall apply—

- [<sup>F308</sup>(a) as if it required the certificate referred to in that section to be issued by the company to the managers; and
- (b) as if it provided that no claim for relief may be made unless the person making the claim has received from the managers] a certificate issued by the managers, in such form as the Board may authorise, certifying that the managers hold certificates issued to them by the companies concerned, for the purposes of sections 306(2), in respect of the holdings of eligible shares shown on the managers’ certificate.

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- (5) The managers of an approved fund may be required by a notice given to them by an inspector or other officer of the Board to deliver to the officer, within the time limited by the notice, a return of the holdings of eligible shares shown on certificates issued by them in accordance with subsection (4) above in the year of assessment to which the return relates.
- (6) Section 306(6) shall not apply in relation to any certificate issued by the managers of an approved fund for the purposes of subsection (4) above.

**Textual Amendments**

**F305** Words in s. 311(2) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 26(a)**

**F306** 1988(F) s.53 in respect of funds closing after 15 March 1988.

**F307** Words in s. 311(2B) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 26(b)**

**F308** Words in s. 311(4) substituted (with effect in accordance with s. 134(2)(3) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 20 para. 23**

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**Marginal Citations**

**M35** Source-1983 Sch.5 19(1)

**M36** Source-1983 Sch.5 19A; 1986 Sch.9 20

**312 Interpretation of Chapter III.**

- (1)<sup>M37</sup> In this Chapter—
- [<sup>F309</sup>“arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;]
  - “associate” has the meaning given in subsections (3) and (4) of section 417 except that in those subsections “relative” shall not include a brother or sister;  
<sup>F310</sup> .....
  - [<sup>F311</sup>“bonus shares” means shares which are issued otherwise than for payment (whether in cash or otherwise);]
  - “control”, except in sections [<sup>F312</sup>289(9),][<sup>F313</sup>291B(4) [<sup>F314</sup>, 293(8)(b)] and 308(2)], shall be construed in accordance with section 416(2) to (6);
  - “debenture” has the meaning given by section 744 of the <sup>M38</sup>Companies Act 1985;  
[<sup>F315F310</sup> .....]  
<sup>F310</sup> .....
  - “director” shall be construed in accordance with section 417(5);
  - [<sup>F316</sup>“eligible for relief” has the meaning given by section 289(1),
  - “eligible shares” has the meaning given by section 289(7).]
  - <sup>F310</sup> .....
  - <sup>F317</sup> .....
  - <sup>F310</sup> .....
  - <sup>F318</sup> .....
  - <sup>F310</sup> .....
  - <sup>F310</sup> .....

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F310 .....

“ordinary shares” means shares forming part of a company’s ordinary share capital;

[<sup>F319</sup>“the period of restriction”, in relation to any eligible shares issued by a company, means the period—

- (a) beginning one year before the shares are issued, and
- (b) ending immediately before the termination date relating to the shares;]

F317 .....

[<sup>F320</sup>[<sup>F321</sup>“relief” means relief under this Chapter;

[<sup>F322</sup>“research and development” has the meaning given by section 837A;]

[<sup>F323</sup>“qualifying 90% subsidiary”, in relation to any company, is to be construed in accordance with section 289(9) to (13);]

F324 .....]

“subsidiary”, in relation to any company (except in the expression “51 per cent. subsidiary” or where otherwise defined), means a subsidiary of that company of a kind which that company may hold under section 308,

“51 per cent. subsidiary”, in relation to any company, means (except in the case of references to a company which is a 51 per cent. subsidiary on a particular date or at a particular time) a company which is a 51 per cent. subsidiary of that company at any time in the relevant period (applying subsection (1A)(a) below),]

[<sup>F325</sup>“termination date” in relation to any eligible shares issued by a company, means the third anniversary of the issue date or if—

- (a) [<sup>F326</sup>the money raised by the issue was raised wholly or mainly] for the purpose of a qualifying business activity falling within section 289(2) (a) (company meeting trading activities requirement by reason of the company or a [<sup>F327</sup>qualifying 90% subsidiary of the company] carrying on or preparing to carry on a qualifying trade), and
- (b) [<sup>F328</sup>neither the company nor any of its qualifying 90% subsidiaries had] begun to carry on the trade in question on the issue date,

the third anniversary of the date on which [<sup>F329</sup>the company or any qualifying 90% subsidiary of the company] begins to carry on that trade; and]

[<sup>F330</sup>“unquoted company” means a company none of whose shares, stocks, debentures or other securities are marketed to the general public,

F310 .....]

[<sup>F331</sup>[<sup>F332</sup>(1A) In any provision of this Chapter “relevant period”, in relation to any eligible shares issued by a company, means whichever of the following periods is applied for the purposes of that provision—

- (a) the period beginning either—
  - (i) with the incorporation of the company, or
  - (ii) if the company was incorporated more than two years before the date on which the shares were issued, two years before that date,and ending immediately before the termination date relating to the shares, and
- (b) the period beginning with the issue of the shares and ending immediately before the termination date relating to them.]

[ In determining, for the purposes of the definition of “termination date” in <sup>F333</sup>(1ZA) subsection (1) above, when a qualifying trade is begun to be carried on by a qualifying



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90% subsidiary of a company there shall be disregarded any carrying on of the trade by it before it became such a subsidiary of the company.]

(1B) For the purposes of the definition of “unquoted company” in subsection (1) above, shares, stocks, debentures or other securities are marketed to the general public if they are—

- (a) listed on a recognised stock exchange,
- (b) listed on a designated exchange in a country outside the United Kingdom, or
- (c) <sup>F334</sup> . . . dealt in outside the United Kingdom by such means as may be designated.

(1C) In subsection (1B) above “designated” means designated by an order made by the Board for the purposes of that subsection; and an order made for the purposes of paragraph (b) of that subsection may designate an exchange by name, or by reference to any class or description of exchanges, including a class or description framed by reference to any authority or approval given in a country outside the United Kingdom.

(1D) Section 828(1) does not apply to an order made for the purposes of subsection (1B) above.

(1E) Where a company is an unquoted company at the time when any shares are issued [<sup>F335</sup> (“the relevant time”)], it shall not be treated for the purposes of this Chapter as ceasing to be an unquoted company in relation to those shares at any subsequent time by reason only that any shares, stocks, debentures or other securities of the company are at that time—

- [<sup>F336</sup>(a) listed on a stock exchange that is a recognised stock exchange by virtue of an order made under section 841, or
  - (b) listed on an exchange, or dealt in by any means, designated by an order made for the purposes of subsection (1B) above,
- if the order was made after the relevant time.]]

(2) <sup>M39</sup>Section 839 applies for the purposes of this Chapter other than [<sup>F337</sup>section 291, section 291A(1), (4) and (5) and section 291B].

[<sup>F338</sup>(2A) References in this Chapter to a company being in administration or receivership shall be construed as follows—

- [<sup>F339</sup>(a) references to a company being “in administration” are to a company being in administration within the meaning of Schedule B1 to the Insolvency Act 1986, or to there being in force in relation to it—
  - (i) an administration order under Part III of the Insolvency (Northern Ireland) Order 1989, or
  - (ii) any corresponding order under the law of a country or territory outside the United Kingdom;]
- (b) references to a company being “in receivership” are to there being in force in relation to it—
  - (i) an order for the appointment of an administrative receiver, a receiver and manager or a receiver under Chapter I or II of Part III of the <sup>M40</sup>Insolvency Act 1986 or Part IV of the <sup>M41</sup>Insolvency (Northern Ireland) Order 1989, or
  - (ii) any corresponding order under the law of a country or territory outside the United Kingdom.]

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- (3) References in this Chapter to a disposal of shares include references to a disposal of an interest or right in or over the shares and an individual shall be treated for the purposes of this Chapter as disposing of any shares which he is treated by virtue of section <sup>F340</sup>[<sup>F341</sup>136] of the 1992 Act] as exchanging for other shares.
- <sup>F342</sup>(4) In this Chapter—
- (a) references in any provision to the reduction of any relief attributable to any shares include a reference—
    - (i) to the reduction of the relief to nil, and
    - (ii) where no relief has yet been given, to the reduction of the amount which apart from that provision would be the relief, and
  - (b) references to the withdrawal of any relief, in respect of any shares, are to the withdrawal of the relief attributable to those shares or, in a case where no relief has yet been given, to ceasing to be eligible for relief in respect of those shares.
- <sup>F343</sup>(4A) In this Chapter references (however expressed) to an issue of eligible shares in any company are to any eligible shares in the company that are of the same class and are issued on the same day.
- (4B) For the purposes of this Chapter shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on the Stock Exchange.]
- (5) For the purposes of this Chapter, the market value at any time of any asset shall be taken to be the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it.]
- (6) References in this Chapter to relief given to an individual in respect of eligible shares, and to the withdrawal of such relief, include respectively references to relief given to him in respect of those shares at any time after he has disposed of them and references to the withdrawal of such relief at any such time.
- <sup>F344</sup>(7) .....
- <sup>F344</sup>(8) .....

#### Textual Amendments

- F309** S. 312(1): definition of "arrangements" inserted (with effect as mentioned in Sch. 17 para. 14(2)(3) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 14(1)(a)**
- F310** S. 312(1): definitions repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(3)**, Note 6
- F311** S. 312(1): definition of "bonus shares" inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 11(2)(a)**
- F312** S. 312(1): words in definition of "control" inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 18 para. 11(2)(b)**
- F313** S. 312(1): words in definition of "control" substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 27(a)(i)**
- F314** S. 312(1): words in definition of "control" inserted (with effect as mentioned in Sch. 17 para. 14(2)(3) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 14(1)(b)**
- F315** S. 312(1): definition of "the designated period" inserted (with effect as mentioned in Sch. 17 para. 8 of the amending Act) by Finance Act 2000 (c. 17), **Sch. 17 para. 6(2)**
- F316** S. 312(1): definitions of "eligible for relief" and "eligible shares" inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 27(a)(ii)**

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- F317** S. 312(1): definitions of "fixed-rate preference share capital" and "the relevant period" repealed (with effect as mentioned in s. 137(1)(2), Sch. 26 Pt. 5(17) Note of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 27\(a\)\(iii\)\(iv\)](#), [Sch. 26 Pt. 5\(17\)](#)
- F318** S. 312(1): definition of "new consideration" repealed (with effect as mentioned in s. 74(3), Sch. 27 Pt. 3(14) Note 4 of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 23\(1\)\(a\)](#), [Sch. 27 Pt. 3\(14\)](#)
- F319** S. 312(1): definition of "the period of restriction" inserted (with effect in accordance with [Sch. 15 para. 40\(2\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 24](#)
- F320** S. 312(1): definitions of "relief", "subsidiary" and "51 per cent. subsidiary" substituted for "the relief" and "relief" (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 27\(a\)\(v\)](#)
- F321** S. 312(1): definitions of "relief", "research and development" and "the seven year period" substituted for definitions of "research and development" and "relief" (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 23\(1\)\(b\)](#)
- F322** S. 312(1): definition of "research and development" substituted (with effect as mentioned in [Sch. 17 para. 15\(2\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 17 para. 15\(1\)](#) (with [Sch. 15 para. 15\(3\)](#))
- F323** S. 312(1): definition of "qualifying 90% subsidiary" inserted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 11\(2\)\(c\)](#)
- F324** S. 312(1): definition of "the seven year period" repealed (with effect as mentioned in [Sch. 17 para. 8](#) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 40 Pt. 2\(5\)](#), Note 4
- F325** S. 312(1): definition of "termination date" substituted for word (with effect as mentioned in [Sch. 17 para. 8](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 17 para. 6\(3\)](#)
- F326** S. 312(1): words in para. (a) of definition of "termination date" substituted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 11\(2\)\(d\)\(i\)](#)
- F327** S. 312(1): words in para. (a) of definition of "termination date" substituted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 11\(2\)\(d\)\(ii\)](#)
- F328** S. 312(1): words in para. (b) of definition of "termination date" substituted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 11\(2\)\(d\)\(iii\)](#)
- F329** S. 312(1): words in definition of "termination date" substituted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 11\(2\)\(d\)\(iv\)](#)
- F330** S. 312(1): definition of "unquoted company" substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 27\(a\)\(vi\)](#)
- F331** S. 312(1A)-(1E) inserted (with effect as mentioned in s. 137(1)(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 27\(b\)](#)
- F332** S. 312(1A) substituted (with effect as mentioned in [Sch. 17 para. 8](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 17 para. 6\(4\)](#)
- F333** S. 312(1ZA) inserted (with effect in accordance with [Sch. 18 para. 21](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 11\(3\)](#)
- F334** Words in s. 312(1B)(c) repealed (with effect as mentioned in s. 74(3), Sch. 27 Pt. 3(14) Note 4 of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 23\(3\)](#), [Sch. 27 Pt. 3\(14\)](#)
- F335** Words in s. 312(1E) inserted (with effect in accordance with [Sch. 15 para. 40\(2\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 13\(a\)](#)
- F336** Words in s. 312(1E) substituted (with effect in accordance with [Sch. 15 para. 40\(2\)](#) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 13\(b\)](#)
- F337** Words in s. 312(2) substituted (with effect as mentioned in s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 23\(4\)](#)
- F338** S. 312(2A) inserted (with effect as mentioned in [Sch. 17 para. 12](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 17 para. 9\(4\)](#)
- F339** S. 312(2A)(a) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 18](#) (with art. 6)

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- F340** Words in s. 312(3)(5)(b) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(18)** (with ss. 60, 101(1), 171, 201(3)).
- F341** Words in s. 312(3) substituted (with effect in accordance with Sch. 9 paras. 7, 8(1) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 9 para. 4(3)**
- F342** S. 312(4)(5) substituted (with effect as mentioned in s. 137(1)(2) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 15 para. 27(d)**
- F343** S. 312(4A)(4B) inserted (with effect as mentioned in s. 74(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 13 para. 23(5)**
- F344** S. 312(7)(8) repealed (with effect in accordance with Sch. 15 para. 40(2) of the repealing Act) by Finance Act 2001 (c. 9), **Sch. 33 Pt. 2(3)**, Note 6

#### Modifications etc. (not altering text)

- C16** S. 312(2A) applied by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 5 para. 11(10)** (as inserted (with effect in accordance with s. 96(6) of the 2004 amending Act) by Finance Act 2004 (c. 12), **s. 96(4)(f)**)

#### Marginal Citations

- M37** Source-1981 s.67; 1983 Sch.5 20(1), (2); 1985 s.44(6); 1986 Sch.9 21(1), (2)
- M38** 1985 c. 6.
- M39** Source-1981 s.67(2)-(4); 1983 Sch.5 20(1)
- M40** 1986 c. 45.
- M41** S.I. 1989/2405 (N.I. 19).

**Status:**

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