

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 16 U.K.

Section 57

#### COMMUNITY INVESTMENT TAX RELIEF

#### PART 1 U.K.

##### INTRODUCTION

##### *Eligibility for tax relief*

- 1 (1) An individual or company (“the investor”) that makes an investment (“the investment”) in a body is eligible for relief in respect of the investment if—
- (a) that body is accredited as a community development finance institution under this Schedule at the time the investment is made (see Part 2);
  - (b) the investment is a qualifying investment (see Part 3); and
  - (c) the general conditions of Part 4 are satisfied.
- (2) In this Schedule references to “the CDFI” are to the body in which the investment is made.

##### **Commencement Information**

**II** Sch. 16 para. 1 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

##### *Meaning of “investment”*

- 2 (1) For the purposes of this Schedule, a person makes an investment in a body at any time when—
- (a) he makes a loan (whether secured or unsecured) to the body, or
  - (b) an issue of securities of or shares in the body, for which he has subscribed, is made to him.
- (2) For the purposes of sub-paragraph (1)(a)—
- (a) a person does not make a loan to a body where—
    - (i) the body uses overdraft facilities provided by that person, or
    - (ii) that person subscribes for or otherwise acquires securities of the body;
  - (b) where the loan agreement authorises the body to draw down amounts of the loan over a period of time, the loan is treated as made at the time when the first amount is drawn down.

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#### Commencement Information

**I2** Sch. 16 para. 2 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

#### Meaning of “the five year period”

3 In this Schedule “the five year period” means the period of five years beginning with the day the investment is made (“the investment date”).

#### Commencement Information

**I3** Sch. 16 para. 3 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

## PART 2 **U.K.**

### ACCREDITED COMMUNITY DEVELOPMENT FINANCE INSTITUTIONS

#### Application and criteria for accreditation

- 4 (1) Applications for accreditation as a community development finance institution must be made to the Secretary of State in such form and manner as he may specify.
- (2) The Secretary of State shall accredit a body if, and only if, he is satisfied—
- (a) that the body’s principal objective is to provide (directly or indirectly)—
    - (i) finance, or
    - (ii) finance and access to business advice,
 for enterprises for disadvantaged communities, and
  - (b) that the body satisfies such other criteria as may be specified in regulations made by the Treasury.
- (3) For the purposes of this paragraph “enterprises for disadvantaged communities” include—
- (a) enterprises located in disadvantaged areas, and
  - (b) enterprises owned or operated by, or designed to serve, members of disadvantaged groups.
- (4) The criteria mentioned in paragraph (b) of sub-paragraph (2) may include criteria relating to the enterprises to which the body provides or proposes to provide finance or access to business advice.
- (5) Regulations under that paragraph may—
- (a) make the provision mentioned in that paragraph by reference to any material published by, or on behalf of, the Secretary of State (whether before or after the coming into force of this paragraph), and
  - (b) make different provision for different cases or circumstances or in relation to different areas.
- (6) Without prejudice to the generality of sub-paragraph (5)(b), those regulations may, in particular, make different provision in the case of bodies whose principal objective in providing finance as mentioned in sub-paragraph (2)(a) is to invest directly in

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enterprises that use the money raised for the purposes of the business of the enterprise in cases where—

- (a) that business does not include the provision of finance for other enterprises, or
- (b) if it includes any such provision, the nature and extent of that provision satisfies such conditions as the Treasury may, by regulations, prescribe.

- (7) Where the Secretary of State accredits a body of the kind mentioned in sub-paragraph (6), he shall specify in the accreditation that the body is accredited as a retail community development finance institution.

**Commencement Information**

**I4** Sch. 16 para. 4 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Terms and conditions of accreditation*

- 5 (1) An accreditation under this Schedule shall—
- (a) be made on—
    - (i) such terms as regulations may require, and
    - (ii) such other terms as the Secretary of State considers appropriate, and
  - (b) be made conditional upon compliance with—
    - (i) such requirements as regulations may require, and
    - (ii) such other requirements as the Secretary of State considers appropriate.
- (2) The requirements that may be imposed by virtue of sub-paragraph (1)(b) include requirements relating to the provision of information.
- (3) Regulations may—
- (a) make provision for appeals to the Special Commissioners against refusals to grant accreditation under this Schedule;
  - (b) make provision about the consequences of a failure to comply with any requirement of an accreditation, including—
    - (i) provision for the withdrawal of the accreditation with effect from the time of the failure or a later time; and
    - (ii) provision for the imposition of penalties;
  - (c) make provision for the making of decisions by the Secretary of State as to any matter required to be decided for the purposes of the regulations;
  - (d) make different provision for different cases or circumstances or in relation to different areas; and
  - (e) make such incidental, supplemental, transitional and consequential provision as appears to the Treasury to be necessary or expedient.
- (4) In this paragraph “regulations” means regulations made by the Treasury.

**Commencement Information**

**I5** Sch. 16 para. 5 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

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### *Delegation of Secretary of State's functions*

- 6 The Secretary of State may delegate any functions conferred on him by or under this Part.

#### **Commencement Information**

**I6** Sch. 16 para. 6 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

### *Period of accreditation*

- 7 (1) An accreditation has effect for a period of three years beginning on such day as may be specified in the accreditation, being a day which is no earlier than—
- (a) if the body is not accredited under this Schedule at the time the application is made, the day the accreditation is granted, and
  - (b) if the body is so accredited, the time the body's current accreditation expires.
- This is subject to sub-paragraphs (2) and (3).
- (2) Where the application for an accreditation is made before 6th April 2003, the accreditation may specify that it is to have effect for a period—
- (a) beginning on 17th April 2002 or such later day as may be specified in the accreditation, and
  - (b) ending immediately before the third anniversary of the day the accreditation is granted.
- (3) Where the body is accredited at the time the application is made and it makes a request under this sub-paragraph, the new accreditation may specify that the existing accreditation is to be treated for the purposes of this Schedule (including sub-paragraph (1)(b) above) as expiring immediately before the grant of the new accreditation (if it would otherwise expire at a later time).
- (4) This paragraph has effect subject to paragraph 5(3)(b) (power to provide for the withdrawal of accreditation).

#### **Commencement Information**

**I7** Sch. 16 para. 7 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

## **PART 3 U.K.**

### QUALIFYING INVESTMENTS

#### *Introduction*

- 8 For the purposes of this Schedule the investment is a “qualifying investment” in the CDFI if—
- (a) the investment consists of—
    - (i) a loan in relation to which the conditions of paragraph 9 are satisfied,

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- (ii) securities in relation to which the conditions of paragraph 10 are satisfied, or
  - (iii) shares in relation to which the conditions of paragraph 11 are satisfied;
- (b) the investor receives from the CDFI a valid tax relief certificate in relation to the investment (see paragraph 12); and
  - (c) the requirements of paragraph 13 are met in relation to pre-arranged protection against risks.

#### **Commencement Information**

**I8** Sch. 16 para. 8 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Conditions to be satisfied in relation to loans*

- 9
- (1) The first condition of this paragraph is that either—
    - (a) the CDFI receives from the investor, on the investment date, the full amount of the loan, or
    - (b) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the end of that period is not later than 18 months after the investment date.
  - (2) The second condition is that the loan must not carry any present or future right to be converted into or exchanged for a loan which is, or securities, shares, or other rights which are, redeemable within the five year period.
  - (3) The third condition is that the loan must not have been made on terms that allow any person to require—
    - (a) the repayment during the first two years of the five year period of any of the loan capital advanced in those two years,
    - (b) the repayment during the third year of that period of more than 25% of the loan capital outstanding at the end of those two years,
    - (c) the repayment before the end of the fourth year of that period of more than 50% of that loan capital, or
    - (d) the repayment before the end of that period of more than 75% of that loan capital.
  - (4) For the purposes of sub-paragraph (3), any requirement arising as a consequence of a failure of the CDFI to fulfil any obligation of the loan agreement shall be disregarded if that obligation—
    - (a) is imposed by reason only of the commercial risks to which the investor is exposed as lender under that agreement, and
    - (b) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Schedule.
  - (5) The Treasury may by order substitute for any percentage for the time being specified in sub-paragraph (3) such other percentage as they think fit; and any such substitution shall have effect in relation to loans made by a person on or after such date as may be specified in the order.

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**Commencement Information**

**I9** Sch. 16 para. 9 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Conditions to be satisfied in relation to securities*

- 10 (1) The first condition of this paragraph is that the securities must be—
- (a) subscribed for wholly in cash, and
  - (b) fully paid for on the investment date.
- (2) The second condition is that the securities must not carry—
- (a) any present or future right to be redeemed within the five year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.

**Commencement Information**

**I10** Sch. 16 para. 10 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Conditions to be satisfied in relation to shares*

- 11 (1) The first condition of this paragraph is that the shares must be—
- (a) subscribed for wholly in cash, and
  - (b) fully paid up on the investment date.
- Shares are not fully paid up for the purposes of paragraph (b) if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the shares.
- (2) The second condition is that the shares must not carry—
- (a) any present or future right to be redeemed during the five year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.

**Commencement Information**

**I11** Sch. 16 para. 11 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Tax relief certificates*

- 12 (1) For the purposes of this Schedule a “tax relief certificate” means a certificate issued by the CDFI in respect of the investment, which is in such form as the Board may specify.
- (2) The CDFI must not, in relation to an accreditation period—
- (a) if it is accredited for that period as a retail community development finance institution (see paragraph 4(7)), issue tax relief certificates in respect of

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- investments made in the CDFI in that period with an aggregate value exceeding £10 million, and
- (b) in any other case, issue tax relief certificates in respect of investments made in the CDFI in that period with an aggregate value exceeding £20 million.
- (3) For the purposes of sub-paragraph (2) the value of an investment made in the CDFI is—
- (a) if the investment consists of a loan—
- (i) the amount of the loan, or
- (ii) where the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the amount committed under the loan agreement; and
- (b) if the investment consists of securities or shares, the amount subscribed for them.
- (4) The Treasury may, by order, substitute for any amount for the time being specified in sub-paragraph (2) such other amount as they think fit.
- (5) Any such substitution shall have effect in relation to such accreditation periods as may be specified in the order; and those periods may, if the substitution increases the amount for the time being specified in sub-paragraph (2), include periods beginning before the order takes effect.
- (6) Any tax relief certificate issued wholly or partly in contravention of sub-paragraph (2) is invalid.
- (7) A body is liable to a penalty not exceeding £3000 if it issues a tax relief certificate which is made fraudulently or negligently.

#### **Commencement Information**

**I12** Sch. 16 para. 12 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Pre-arranged protection against risks*

- 13 (1) Any arrangements—
- (a) under which the investment is made, or
- (b) made, before the investor makes the investment, in relation to or in connection with the making of the investment,
- must not include arrangements (“excluded 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 the investor against what would otherwise be the risks attached to making the investment.
- (2) For the purposes of sub-paragraph (1), excluded arrangements do not include any arrangements which are confined to the provision for the investor of any such protection against those risks as might reasonably be expected to be provided for commercial reasons if the investment were made in the course of a business of banking.
- (3) For the purposes of this paragraph “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

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#### Commencement Information

**I13** Sch. 16 para. 13 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

## PART 4 U.K.

### GENERAL CONDITIONS

#### *No control of CDFI by investor*

- 14 (1) The investor must not control the CDFI at any time during the five year period.
- (2) In this paragraph references to the investor include any person connected with the investor.
- (3) Where the CDFI is a body corporate, the question whether the investor controls the CDFI shall, for the purposes of this paragraph, be determined in accordance with section 840 of the Taxes Act 1988.

This is subject to sub-paragraph (6).

- (4) In any other case, the investor shall be treated, for those purposes, as having control of the CDFI if he has power to secure—
- by means of the possession of voting power in the CDFI, or
  - by virtue of any powers conferred by the constitution of, or any other document regulating, the CDFI,

that the affairs of the body are conducted in accordance with his wishes.

This is subject to sub-paragraphs (5) and (6).

- (5) Where the CDFI is a partnership and the investor is a member of that partnership, for the purposes of determining in accordance with this paragraph whether the investor controls the CDFI the other members of that partnership shall not, by virtue of their membership of the CDFI, be treated as partners of the investor.
- (6) In determining whether the investor controls the CDFI there shall be attributed to the investor (to the extent that it would not otherwise be the case)—
- any rights or powers that the investor is entitled to acquire at a future date or will, at a future date, become entitled to acquire, and
  - any rights or powers which another person holds on behalf of the investor or may be required to exercise, by direction, on his behalf.

#### Commencement Information

**I14** Sch. 16 para. 14 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

#### *Beneficial ownership*

- 15 (1) The investor must be the sole beneficial owner of the investment when it is made.



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- (2) Where the investment consists of a loan, the person beneficially entitled to repayment of the loan shall be treated as the beneficial owner of the loan for the purposes of this Schedule.

**Commencement Information**

**I15** Sch. 16 para. 15 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Investor must not be accredited*

- 16 The investor must not be accredited as a community development finance institution under this Schedule (see Part 2) on the investment date.

**Commencement Information**

**I16** Sch. 16 para. 16 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*No acquisition of share in partnership*

- 17 (1) Where the CDFI is a partnership, the investment must not consist of or include any amount of capital contributed by the investor on becoming a member of the partnership.
- (2) For this purpose, the amount of capital contributed by the investor on becoming a member of the partnership includes any amount which—
- (a) purports to be provided by the investor by way of loan capital, and
  - (b) is accounted for as partners' capital in the accounts of the partnership.

**Commencement Information**

**I17** Sch. 16 para. 17 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*No tax avoidance purpose*

- 18 The investment must not be made as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.

**Commencement Information**

**I18** Sch. 16 para. 18 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

**PART 5 U.K.**

FORM OF RELIEF

*Individual investors*

- 19 (1) This paragraph applies where the investor is—

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- (a) an individual, and
  - (b) eligible for relief in respect of the investment (see paragraph 1(1)).
- (2) Where the investor makes a claim in respect of a loan, securities or shares for a relevant tax year in accordance with this Part, the amount of his liability for that year to income tax on his total income shall be reduced by the smaller of—
- (a) 5% of the invested amount in respect of that loan or those securities or shares for the year, and
  - (b) the amount which reduces his liability to zero.
- (3) For this purpose the “relevant” tax years are—
- (a) the tax year in which the investment date falls, and
  - (b) each of the four subsequent tax years.
- (4) The investor is entitled to make a claim for relief for a relevant tax year if—
- (a) it appears to him that the conditions for the relief are for the time being satisfied, and
  - (b) he has received a tax relief certificate (see paragraph 12) relating to the investment from the CDFI,
- but no claim may be made before the end of the tax year to which it relates.
- (5) Sub-paragraph (4) is subject to the following provisions—
- (a) paragraph 22 (loans: no claim after disposal or excessive repayments or receipts of value);
  - (b) paragraph 23 (securities or shares: no claim after disposal or excessive receipts of value);
  - (c) paragraph 24 (loss of accreditation by CDFI).
- (6) In determining for the purposes of sub-paragraph (2) the amount of income tax to which the investor would be liable apart from this paragraph, no account shall be taken of—
- (a) any income tax reduction under Chapter 1 of Part 7 of the Taxes Act 1988 or under section 347B of that Act;
  - (b) any income tax reduction under section 353(1A) of that Act;
  - (c) 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), of that Act;
  - (d) 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.

#### **Commencement Information**

**I19** Sch. 16 para. 19 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Company investors*

- 20 (1) This paragraph applies where the investor is—
- (a) a company, and
  - (b) eligible for relief in respect of the investment (see paragraph 1(1)).

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- (2) Where the investor makes a claim for a relevant accounting period in respect of a loan, securities or shares in accordance with this Part, the amount of its liability for corporation tax for that period shall be reduced by the smaller of—
  - (a) 5% of the invested amount in respect of that loan or those securities or shares for the period, and
  - (b) the amount which reduces the investor’s liability to zero.
- (3) For this purpose the “relevant” accounting periods are—
  - (a) the accounting period in which the investment date falls, and
  - (b) each of the accounting periods in which the subsequent four anniversaries of that date fall.
- (4) The investor is entitled to make a claim for relief for a relevant accounting period if—
  - (a) it appears to the investor that the conditions for the relief are for the time being satisfied, and
  - (b) it has received a tax relief certificate (see paragraph 12) relating to the investment from the CDFI,but no claim may be made before the end of the accounting period to which it relates.
- (5) Sub-paragraph (4) is subject to the following provisions—
  - (a) paragraph 22 (loans: no claim after disposal or excessive repayments or receipts of value);
  - (b) paragraph 23 (securities or shares: no claim after disposal or excessive receipts of value);
  - (c) paragraph 24 (loss of accreditation by CDFI);
  - (d) paragraph 25 (accreditation of the investor).

#### **Commencement Information**

**I20** Sch. 16 para. 20 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Determination of “the invested amount”*

- 21 (1) This paragraph applies for the purpose of determining “the invested amount” in respect of any loan, securities or shares comprised in the investment.

This is subject to paragraphs 31(2) and 38 (which adjust “the invested amount” in certain cases where value is received).

- (2) In the case of a loan, the invested amount is—
  - (a) for the tax year or accounting period in which the investment date falls, the average capital balance for the first year of the five year period;
  - (b) for the tax year or accounting period in which the first anniversary of the investment date falls, the average capital balance for the second year of the five year period;
  - (c) for any subsequent tax year or accounting period—
    - (i) the average capital balance for the period of one year beginning with the anniversary of the investment date falling in the tax year or accounting period concerned, or

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- (ii) if less, the average capital balance for the period of six months beginning eighteen months after the investment date.
- (3) In the case of securities or shares, the invested amount for a tax year or accounting period is the amount subscribed by the investor for the securities or shares.
- (4) For the purposes of this paragraph, the average capital balance of the loan for a period is the mean of the daily balances of capital outstanding during the period.

#### Commencement Information

**I21** Sch. 16 para. 21 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

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

- 22 (1) Where the investment consists of a loan, no claim may be made in respect of a tax year or accounting period if—
- the investor disposes of the whole or any part of the loan before the qualifying date relating to that year or period,
  - at any time after the investment is made but before that qualifying date, the amount of the capital outstanding on the loan is reduced to nil, or
  - before that qualifying date, paragraphs (a) and (b) of paragraph 30(1) (repayments of loan in five year period exceeding permitted limits) apply in relation to the investment (whether by virtue of paragraph 31 (receipts of value treated as repayments) or otherwise).

For the purposes of paragraph (a) any repayment of the loan is to be disregarded.

- (2) For the purposes of this paragraph the qualifying date relating to a tax year or accounting period is the anniversary of the investment date next occurring after the end of that year or period.

#### Commencement Information

**I22** Sch. 16 para. 22 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

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

- 23 (1) Where the investment consists of securities or shares, a claim made in respect of a tax year or accounting period must relate only to those securities or shares held by the investor, as sole beneficial owner, continuously throughout the period—
- beginning when the investment is made, and
  - ending immediately before the qualifying date relating to the tax year or accounting period.
- (2) No claim for relief may be made in relation to a tax year or accounting period if before the qualifying date relating to that year or period paragraphs (a) to (d) of paragraph 32(1) (receipts of value in five year period exceeding permitted limits) apply in relation to the investment or any part of it.

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- (3) For the purposes of this paragraph, the qualifying date relating to a tax year or accounting period is the anniversary of the investment date next occurring after the end of that year or period.

**Commencement Information**

**I23** Sch. 16 para. 23 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Loss of accreditation by the CDFI*

- 24 (1) Where the CDFI ceases to be accredited under Part 2 with effect from a time (“the relevant time”) within the five year period, no claim for relief relating to the investment may be made by the investor—
- (a) for the relevant tax year or accounting period, or
  - (b) for any later tax year or accounting period.
- (2) For the purposes of sub-paragraph (1) the relevant tax year or accounting period is—
- (a) where the relevant time falls within the first year of the five year period, the tax year or accounting period in which the investment date fell, and
  - (b) in any other case, the year or period in which fell the last anniversary of that date before the relevant time (or, if the relevant time itself falls on an anniversary of the investment date, the year or period in which that anniversary falls).

**Commencement Information**

**I24** Sch. 16 para. 24 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Accreditation of the investor*

- 25 (1) Where the investor is a company and becomes accredited with effect from a time (“the relevant time”) within the five year period, no claim for relief relating to the investment may be made by the investor for the relevant accounting period or any later period.
- (2) For the purposes of sub-paragraph (1) the relevant accounting period is—
- (a) where the relevant time falls within the first year of the five year period, the accounting period in which the investment date fell, and
  - (b) in any other case, the period in which fell the last anniversary of that date before the relevant time (or, if the relevant time itself falls on an anniversary of the investment date, the period in which that anniversary falls).

**Commencement Information**

**I25** Sch. 16 para. 25 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Attribution*

- 26 (1) In this Schedule—

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- (a) references to the relief attributable to any loan, securities or shares in respect of a tax year shall be read as references to the reduction made in the investor's liability to income tax for that year that is attributed to that loan, or those securities or shares, in accordance with this paragraph, and
- (b) references to the relief attributable to any loan, securities or shares in respect of an accounting period shall be read as references to the reduction made in the investor's liability to corporation tax for that period that is attributed to that loan, or those securities or shares, in accordance with this paragraph.

This is subject to the provisions of Part 6 for the withdrawal or reduction of relief.

- (2) Where the investor's liability to income or corporation tax is reduced for a tax year or accounting period under this Part, then—
  - (a) where the reduction is obtained by reason of one loan, or securities or shares comprised in one issue, the amount of the tax reduction shall be attributed to that loan or those securities or shares, and
  - (b) where the reduction is obtained by reason of a loan or loans, securities or shares comprised in two or more investments, the reduction—
    - (i) shall be apportioned between the loan or loans, securities or shares in each of those investments in the same proportions as the invested amounts in respect of the loan or loans, securities or shares for the year or period, and
    - (ii) shall be attributed to that loan or those loans, securities or shares accordingly.
- (3) Where under this paragraph an amount of any reduction of income tax or corporation tax is attributed to any securities in the same issue, a proportionate part of that amount shall be attributed to each security.
- (4) Where under this paragraph an amount of any reduction of income tax or corporation tax is attributed to any shares in the same issue, a proportionate part of that amount shall be attributed to each of those shares.
- (5) If corresponding bonus shares are issued to the investor in respect of any shares ("the original shares") comprised in the investment that have been continuously held by the investor, as sole beneficial owner, from the time they were issued until the issue of the bonus shares—
  - (a) a proportionate part of any amount attributed to the original shares, in respect of a tax year or accounting period, immediately before the bonus shares are issued shall be attributed to each of the shares in the holding comprising the original shares and the bonus shares, in respect of that year or period, and
  - (b) after the issue of the bonus shares, this Schedule shall apply as if—
    - (i) the original issue had included the bonus shares, and
    - (ii) the bonus shares had been held by the investor, as sole beneficial owner, continuously from the time the original shares were issued until the bonus shares were issued.

- (6) In sub-paragraph (5)—

"corresponding bonus shares" means bonus shares that are in the same company, of the same class, and carry the same rights as the original shares; and

"original issue" means the issue of shares forming the investment.

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

- (7) If relief attributable to a loan or any securities or shares falls to be withdrawn under Part 6, the relief attributable to that loan or each of those securities or shares shall be reduced to nil.
- (8) If relief attributable to any securities or shares falls to be reduced under that Part by any amount, the relief attributable to each of those securities or shares shall be reduced by a proportionate part of that amount.

#### Commencement Information

**I26** Sch. 16 para. 26 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

## PART 6 **U.K.**

### WITHDRAWAL OF RELIEF

#### *Manner of withdrawal of relief*

- 27 (1) This paragraph applies where any relief has been obtained which—
- (a) is subsequently found not to have been due, or
  - (b) falls to be withdrawn or reduced under this Part.
- (2) Where the investor is an individual, the relief shall be withdrawn or reduced by making an assessment to income tax <sup>F1</sup>... for the tax year for which the relief was obtained.
- (3) No assessment shall be made under sub-paragraph (2) in respect of an individual by reason of any event occurring after his death.
- (4) Where the investor is a company, the relief shall be withdrawn or reduced by making an assessment to corporation tax under Case VI of Schedule D for the accounting period for which the relief was obtained.

#### Textual Amendments

**F1** Words in Sch. 16 para. 27(2) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 577\(2\)](#), [Sch. 3](#) (with [Sch. 2](#))

#### Commencement Information

**I27** Sch. 16 para. 27 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Disposal of loan during five year period*

- 28 (1) Where the investment consists of a loan, if within the five year period—
- (a) the investor disposes of the whole of the investment, otherwise than by way of a permitted disposal, or
  - (b) the investor disposes of a part of the investment,
- any relief attributable to the investment in respect of any tax year or accounting period must be withdrawn.

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

- (2) For the purposes of this paragraph—
- (a) a disposal is “permitted” if—
    - (i) it is by way of a distribution in the course of dissolving or winding up the CDFI,
    - (ii) it is a disposal within section 24(1) of the 1992 Act (entire loss, destruction, dissipation or extinction of asset),
    - (iii) it is a deemed disposal under section 24(2) of that Act (claim that value of asset has become negligible), or
    - (iv) it is made after the CDFI has ceased to be accredited under this Schedule, and
  - (b) a full or partial repayment of the loan shall not be treated as giving rise to a disposal.

#### **Commencement Information**

**I28** Sch. 16 para. 28 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Disposal of shares or securities during five year period*

- 29 (1) This paragraph applies where the investment consists of securities or shares and—
- (a) the investor disposes of the whole or any part of the investment (“the former investment”) within the five year period,
  - (b) the CDFI has not ceased to be accredited before the disposal, and
  - (c) the disposal does not arise by virtue of an event within paragraph 35(1)(a) (repayment, redemption or repurchase of securities or shares included in the investment).
- (2) If the disposal is not a qualifying disposal, any relief attributable to the former investment in respect of any tax year or accounting period must be withdrawn.
- (3) If the disposal is a qualifying disposal, any relief attributable to the former investment for a tax year or accounting period must—
- (a) if it is greater than an amount equal to 5% of the amount or value of the consideration (if any) which the investor receives for the former investment, be reduced by that amount, and
  - (b) in any other case, be withdrawn.
- (4) For the purposes of this paragraph “qualifying disposal” means a disposal that is—
- (a) by way of a bargain made at arm’s length for full consideration, or
  - (b) a permitted disposal (within the meaning of paragraph 28).
- (5) Where for any tax year or accounting period—
- (a) the amount of relief attributable to the former investment (“A”) is less than
  - (b) the amount (“B”) which is equal to 5% of the invested amount in respect of the former investment for that year or period,
- sub-paragraph (3)(a) shall have effect in relation to that year or period as if the amount or value referred to in that sub-paragraph were reduced by multiplying it by the fraction—



*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

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

- (6) Where the amount of relief attributable to the former investment in respect of a tax year or accounting period has been reduced before the relief was obtained, the amount of relief attributable to that investment shall be deemed for the purposes of sub-paragraph (5) to be the amount of the relief that would have been attributable had no such reduction been made before the relief was obtained.
- (7) Sub-paragraph (6) does not apply to a reduction by virtue of paragraph 26(5) (attribution of relief where there is a corresponding issue of bonus shares).

**Commencement Information**

**I29** Sch. 16 para. 29 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

*Repayments of loan capital*

- 30 (1) Where the investment consists of a loan, if—
- (a) the average capital balance of the loan for the third, fourth or final year of the five year period is less than the permitted balance for the year in question, and
  - (b) the difference between those balances is not an amount of insignificant value, any relief attributable to the investment in respect of any tax year or accounting period must be withdrawn.
- (2) For the purposes of this paragraph—
- “the average capital balance” of the loan for a period is the mean of the daily balances of capital outstanding during that period, disregarding any non-standard repayments of the loan made in that period or at any earlier time;
- “the permitted balance” of the loan is—
- (a) for the third year of the five year period, 75% of the average capital balance for the period of six months beginning 18 months after the investment date,
  - (b) for the fourth year of that period, 50% of that balance, and
  - (c) for the final year of that period, 25% of that balance.
- (3) For the purposes of sub-paragraph (2), a repayment of the loan is a non-standard repayment if it is made—
- (a) at the choice or discretion of the CDFI and not as a direct or indirect consequence of any obligation provided for under the terms of the loan agreement, or
  - (b) as a consequence of the failure of the CDFI to fulfil any obligation of the loan agreement which—
    - (i) is imposed by reason only of the commercial risks to which the investor is exposed as lender under that agreement, and
    - (ii) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Schedule.

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

- (4) For the purposes of this paragraph “an amount of insignificant value” means an amount which—
- (a) does not exceed £1,000, or
  - (b) if it exceeds that amount, is insignificant in relation to the average capital balance of the loan for the year of the five year period in question.

#### Commencement Information

**I30** Sch. 16 para. 30 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

#### *Value received treated as repayment of loan*

- 31 (1) This paragraph applies where the investment consists of a loan and the investor receives any value (other than insignificant value) from the CDFI during the period of restriction.
- (2) The investor shall be treated for the purposes of—
- (a) paragraph 21 (determination of “invested amount”), and
  - (b) paragraph 30 (repayments of loan capital),
- as having received a repayment of the loan of an amount equal to the amount of the value received.
- (3) For those purposes the repayment shall be treated as made—
- (a) where the value was received in the first or second year of the period of restriction, at the beginning of that second year, and
  - (b) where the value was received in a later year of that period, at the beginning of the year in question.
- (4) For the purposes of paragraph 30 the repayment shall be treated as a repayment other than a non-standard repayment (within the meaning of that paragraph).
- (5) For the purposes of this paragraph the investor receives insignificant value where he receives an amount of insignificant value; and for this purpose “an amount of insignificant value” means an amount which—
- (a) does not exceed £1,000, or
  - (b) if it exceeds that amount, is insignificant in relation to the average capital balance of the loan for the year of the period of restriction in which the value is received.
- (6) For the purposes of sub-paragraph (5)(b)—
- (a) “the average capital balance” of the loan for a year is the mean of the daily balances of capital outstanding during the year (disregarding the receipt of value in question), and
  - (b) any value received in the first year of the period of restriction shall be treated as received at the beginning of the second year of that period.
- (7) This paragraph is subject to paragraph 37 (value received where there is more than one investment).
- (8) Value received shall be disregarded, for the purposes of this paragraph, to the extent to which relief attributable to any loan, securities or shares in respect of any one or

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

more tax years or accounting periods has already been reduced or withdrawn on its account.

#### **Commencement Information**

**I31** Sch. 16 para. 31 in force at 23.1.2003 by S.I. 2003/88, arts. 2, 3

*Value received by investor where the investment consists of securities or shares*

- 32 (1) Where the investment consists of securities or shares and—
- (a) the investor receives any value (other than insignificant value) from the CDFI during the period of restriction,
  - (b) the investment or a part of it is held by the investor at the time the value is received and has been held by him, as sole beneficial owner, continuously since the investment was made (“the continuing investment”),
  - (c) the receipt is wholly or partly in excess of the permitted level of receipts in respect of the continuing investment, and
  - (d) the amount of that excess (“the excess”) is not an amount of insignificant value,
- any relief attributable to the continuing investment in respect of any tax year or accounting period must be withdrawn.
- (2) For the purposes of sub-paragraph (1) the permitted level of receipts is exceeded where—
- (a) any amount of value is received by the investor (disregarding any amounts of insignificant value) in the first three years of the period of restriction, or
  - (b) the aggregate amount of value received by the investor (disregarding any amounts of insignificant value)—
    - (i) before the beginning of the fifth year of that period, exceeds 25% of the invested capital;
    - (ii) before the beginning of the final year of that period, exceeds 50% of the invested capital;
    - (iii) before the end of that period, exceeds 75% of the invested capital.
- (3) In this paragraph—
- “the invested capital”, in relation to the continuing investment, means the amount subscribed for the securities or shares concerned;
- “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 investor for the securities or shares comprising the continuing investment;
- and for the purposes of sub-paragraph (1) the investor receives insignificant value where he receives an amount of insignificant value.
- (4) This paragraph is subject to paragraph 37 (value received where there is more than one investment).
- (5) Value received shall be disregarded, for the purposes of this paragraph, to the extent to which relief attributable to any loan, securities or shares in respect of any one or

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

more tax years or accounting periods has already been reduced or withdrawn on its account.

#### Commencement Information

**I32** Sch. 16 para. 32 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Meaning of “period of restriction”

33 In this Part “the period of restriction” in relation to the investment is the period of six years beginning one year before the investment date.

#### Commencement Information

**I33** Sch. 16 para. 33 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Aggregation of receipts of insignificant value

- 34 (1) Where—
- (a) value is received (“the relevant receipt”) by the investor from the CDFI at any time during the period of restriction relating to the investment,
  - (b) the investor has received from the CDFI one or more receipts of insignificant value at a time or times during that period but not later than the time of the relevant receipt, and
  - (c) the aggregate amount of the value of the receipts within paragraphs (a) and (b) is not an amount of insignificant value,
- the investor shall be treated for the purposes of this Schedule as if the relevant receipt had been a receipt of an amount of value equal to that aggregate amount.
- For this purpose a receipt does not fall within paragraph (b) if the whole or any part of it has previously been aggregated under this sub-paragraph.
- (2) For the purposes of this paragraph “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 relevant amount.
- (3) Where the investment consists of a loan, the relevant amount for the purposes of sub-paragraph (2) is—
- (a) if the relevant receipt is received in the first or second year of the period of restriction, the average capital balance of the loan for the second year of that period, and
  - (b) if the relevant receipt is received in a later year, the average capital balance of the loan for the year in question.
- (4) For the purposes of sub-paragraph (3)—
- (a) the average capital balance of the loan for a year is the mean of the daily balances of capital outstanding during the year, and
  - (b) the relevant receipt and any receipts within sub-paragraph (1)(b) shall be disregarded when calculating the average capital balance for the year in question.

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

- (5) Where the investment consists of securities or shares, the relevant amount for the purposes of sub-paragraph (2) is—
- (a) if the relevant receipt is received in the first year of the period of restriction, the amount subscribed for the securities or shares, and
  - (b) in any other case, the amount subscribed for such of the securities or shares as—
    - (i) are held by the investor at the time the relevant receipt is received, and
    - (ii) have been held by him, as sole beneficial owner, continuously since the investment was made.

#### Commencement Information

**I34** Sch. 16 para. 34 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *When value is received*

- 35 (1) For the purposes of this Part the investor receives value from the CDFI at any time when the CDFI—
- (a) repays, redeems or repurchases any securities or shares included in the investment;
  - (b) releases or waives any liability of the investor to the CDFI or discharges, or undertakes to discharge, any liability of the investor to a third person;
  - (c) makes a loan or advance to the investor which has not been repaid in full before the investment is made;
  - (d) provides a benefit or facility for—
    - (i) the investor or any associates of the investor, or
    - (ii) if the investor is a company, directors or employees of the investor or any of their associates;
  - (e) disposes of an asset to the investor for no consideration or for a consideration which is or the value of which is less than the market value of the asset;
  - (f) acquires an asset from the investor for a consideration which is or the value of which is more than the market value of the asset; or
  - (g) makes a payment to the investor other than a qualifying payment.
- [<sup>F2</sup>(1A) But if the investor is a bank, the investor does not receive value from the CDFI when the CDFI makes a deposit with the investor in the course of its ordinary banking arrangements.]
- (2) For the purposes of sub-paragraph (1)(b) the CDFI 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.
- (3) For the purposes of sub-paragraph (1)(c) there shall be treated as if it were a loan made by the CDFI to the investor—
- (a) the amount of any debt incurred by the investor to the CDFI (other than an ordinary trade debt), and
  - (b) the amount of any debt due from the investor to a third person which has been assigned to the CDFI.

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

(4) For the purposes of this paragraph—

- (a) references to a debt or liability do not, in relation to a person, include references to any debt or liability which would be discharged by the making by that person of a qualifying payment;
- (b) references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would have been a qualifying payment; and
- (c) any reference to a payment or disposal to a person includes a reference to a payment or disposal made to that person indirectly or to his order or for his benefit.

In paragraphs (a) to (c) references to “a person” include references to any person who, at any time in the period of restriction in question, is connected with that person, whether or not he is so connected at the material time.

(5) In this paragraph—

[<sup>F3</sup>“bank” has the meaning given by section 840A of the Taxes Act 1988;]  
“qualifying payment” means—

- (a) any payment by any person for any goods, services or facilities provided by the investor (in the course of his trade or otherwise) which is reasonable in relation to the market value of those goods, services or facilities;
- (b) the payment by any person of any interest which represents no more than a reasonable commercial return on money lent to that person;
- (c) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or securities of that company;
- (d) any payment for the acquisition of an asset which does not exceed its market value;
- (e) the payment by any person, as rent for any property occupied by the person, of an amount not exceeding a reasonable and commercial rent for the property; and
- (f) a payment in discharge of an ordinary trade debt; and  
“ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given—
  - (a) does not exceed six months, and
  - (b) is not longer than that normally given to customers of the person carrying on the trade or business.

#### Textual Amendments

**F2** Sch. 16 para. 35(1A) inserted (retrospectively) by [Finance Act 2008 \(c. 9\), s. 54\(2\)\(4\)](#)

**F3** Words in Sch. 16 para. 35(5) inserted (retrospectively) by [Finance Act 2008 \(c. 9\), s. 54\(3\)\(4\)](#)

#### Commencement Information

**I35** Sch. 16 para. 35 in force at 23.1.2003 by [S.I. 2003/88, arts. 2, 3](#)

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

*The amount of value received*

- 36 For the purposes of this Part the amount of the value received is—
- (a) in a case within paragraph 35(1)(a), the amount received by the investor;
  - (b) in a case within paragraph 35(1)(b), the amount of the liability;
  - (c) in a case within paragraph 35(1)(c)—
    - (i) the amount of the loan or advance, less
    - (ii) the amount of any repayment made before the investment is made;
  - (d) in a case within paragraph 35(1)(d)—
    - (i) the cost to the CDFI of providing the benefit or facility, less
    - (ii) any consideration given for it by the investor or any associate of his;
  - (e) in a case within paragraph 35(1)(e) or (f), the difference between the market value of the asset and the consideration (if any) received for it; and
  - (f) in a case within paragraph 35(1)(g), the amount of the payment.

**Commencement Information**

**I36** Sch. 16 para. 36 in force at 23.1.2003 by [S.I. 2003/88](#), arts. 2, 3

*Value received where there is more than one investment*

- 37 (1) This paragraph applies where—
- (a) the investor makes two or more investments in the CDFI (being investments in relation to which the investor is eligible for and claims relief), and
  - (b) the investor receives value (other than value within paragraph 35(1)(a)) which falls within the periods of restriction relating to two or more of those investments.
- (2) Where this paragraph applies, paragraphs 31, 32, 34 and 38 have effect in relation to each investment referred to in sub-paragraph (1)(b) as if the amount of the value received were reduced by multiplying it by the fraction—

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

- (3) For this purpose—
- (a) A is the appropriate amount in respect of the investment in question, and
  - (b) B is the aggregate of that amount and the appropriate amount or amounts in respect of the other investment or investments.
- (4) Where the investment consists of a loan, the appropriate amount for the purposes of sub-paragraph (3) is—
- (a) if the value is received in the first or second year of the period of restriction, the average capital balance of the loan for the second year of that period, and
  - (b) if the value is received in a later year, the average capital balance of the loan for the year in question.
- (5) For the purposes of sub-paragraph (4)—



*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

- (a) the average capital balance of the loan for a year is the mean of the daily balances of capital outstanding during the year, and
  - (b) the receipt of value shall be disregarded when calculating the average capital balance for the year in question.
- (6) Where the investment consists of securities or shares, the appropriate amount for the purposes of sub-paragraph (3) is—
- (a) if the value is received in the first year of the period of restriction, the amount subscribed for the securities or shares, and
  - (b) in any other case, the amount subscribed for such of the securities or shares as—
    - (i) are held by the investor at the time the value is received, and
    - (ii) have been held by him, as sole beneficial owner, continuously since the investment was made.

#### Commencement Information

**I37** Sch. 16 para. 37 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Effect of receipt of value on future claims for relief*

- 38 (1) This paragraph applies where the investment consists of securities or shares and—
- (a) the investor receives any value (other than insignificant value) from the CDFI during the period of restriction, and
  - (b) the investment or a part of it is held by the investor at the time the value is received and has been held by him, as sole beneficial owner, continuously since the investment was made (“the continuing investment”),
- but no relief attributable to the continuing investment is withdrawn under paragraph 32 as a result of the receipt.
- (2) For the purposes of calculating any relief in respect of any securities or shares included in the continuing investment for any relevant tax year or accounting period, the amount subscribed for the securities or shares comprising the continuing investment shall be treated as reduced by the amount of the value received.
- (3) For this purpose the “relevant” tax years or accounting periods are—
- (a) any tax year or accounting period ending on or after the anniversary of the investment date immediately preceding the receipt of value, or
  - (b) if the value was received on an anniversary of the investment date, any tax year or accounting period ending on or after that anniversary.
- (4) For the purposes of this paragraph the investor receives insignificant value where he receives an amount of insignificant value; and for these purposes “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 investor for the securities or shares comprising the continuing investment.



*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

**Commencement Information**

**I38** Sch. 16 para. 38 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Receipts of value by and from connected persons*

- 39 In paragraphs 31 to 38 references to the investor or the CDFI include references to any person who at any time in the period of restriction relating to the investment is connected with the investor or, as the case may be, CDFI, whether or not he is connected at the material time.

**Commencement Information**

**I39** Sch. 16 para. 39 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

**PART 7 U.K.**

**RESTRUCTURING OF CDFI**

*Rights issues etc*

- 40 (1) Where—
- (a) the investor holds shares (“the existing holding”) in the CDFI which are of the same class and held in the same capacity,
  - (b) there is by virtue of such an allotment as is mentioned in section 126(2)(a) of the 1992 Act (an allotment of shares or debentures in respect of and in proportion to an original holding), other than an allotment of corresponding bonus shares, a reorganisation affecting the existing holding,
  - (c) immediately following the reorganisation, relief is attributable to the shares comprised in the existing holding or the shares or debentures allotted in respect of those shares, in respect of one or more tax years or accounting periods, and
  - (d) if relief is attributable to the shares comprised in the existing holding at that time, those shares have been held by the investor continuously from the time they were issued until the reorganisation,
- sections 127 to 130 of that Act (treatment of share capital following a reorganisation) shall not apply in relation to the existing holding.
- (2) Subsection (10) of section 116 of that Act (reorganisations, conversions and reconstructions) shall not apply in any case where the old asset consists of shares held (in the same capacity) by the investor—
- (a) that have been held by the investor continuously from the time they were issued until the relevant transaction, and
  - (b) to which relief is attributable immediately before that transaction.
- In this sub-paragraph “old asset” and “the relevant transaction” have the meanings given in section 116 of that Act.
- (3) For the purposes of sub-paragraph (1)—

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

“corresponding bonus shares” means bonus shares that—  
 (a) are issued in respect of shares comprised in the existing holding, and  
 (b) are of the same class, and carry the same rights, as those shares;  
 “reorganisation” has the meaning given in section 126 of that Act.

- (4) The following provisions of the 1992 Act have effect subject to this paragraph—  
 section 116 (reorganisations, conversions and reconstructions);  
 Chapter 2 of Part 4 (reorganisation of share capital, conversion of securities etc).

#### Commencement Information

**I40** Sch. 16 para. 40 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Company reconstructions etc*

- 41 (1) Where—
- (a) the investor holds shares in or debentures of a company (“company A”),
  - (b) there is a reconstruction or amalgamation affecting that holding (“the existing holding”),
  - (c) immediately before the reconstruction or amalgamation, relief is attributable to the shares or debentures comprised in the existing holding in respect of one or more tax years or accounting periods, and
  - (d) the shares or debentures comprised in the existing holding have been held by the investor continuously from the time they were issued until the reconstruction or amalgamation,
- sections 135 and 136 of the 1992 Act (share exchanges and company reconstructions) shall not apply in respect of the existing holding.
- (2) Sub-paragraph (1)(a) applies only where the shares or debentures are held by the investor in the same capacity.
- (3) For the purposes of sub-paragraph (1) a “reconstruction or amalgamation” means an issue by a company of shares in or debentures of that company in exchange for or in respect of shares in or debentures of company A.
- (4) The following provisions of the 1992 Act have effect subject to this paragraph—  
 section 116 (reorganisations, conversions and reconstructions);  
 Chapter 2 of Part 4 (reorganisation of share capital, conversion of securities etc).

#### Commencement Information

**I41** Sch. 16 para. 41 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

## PART 8 U.K.

### SUPPLEMENTARY AND GENERAL

#### *Information to be provided by the investor*

- 42 (1) Where—
- (a) the investor has obtained relief in respect of the investment, and
  - (b) an event occurs by reason of which relief attributable to the investment for any tax year or accounting period falls to be withdrawn or reduced by virtue of paragraph 28, 29, 30 or 32,
- the investor must give the Inland Revenue a notice containing particulars of the event.
- (2) Where sub-paragraph (1) requires the giving of a notice, then, subject to sub-paragraph (3) the investor must give the notice not later than—
- (a) if the investor is an individual, 31st January next following the tax year in which the event occurred, and
  - (b) if the investor is a company, the end of the period of 12 months beginning with the end of the accounting period in which the event occurred.
- (3) Where—
- (a) the investor is required to give a notice by virtue of the receipt of value by a person connected with the investor (see paragraph 39), and
  - (b) the end of the period of 60 days beginning when the investor comes to know of that event is later than the final notice date under sub-paragraph (2),
- the notice must be given within that 60 day period.
- (4) In this paragraph “the Inland Revenue” means any officer of the Board.

#### **Commencement Information**

**I42** Sch. 16 para. 42 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### *Disclosure*

- 43 (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise prevents the disclosure of information—
- (a) by the Secretary of State to the Inland Revenue for the purpose of assisting the Inland Revenue to discharge their functions under the Tax Acts so far as relating to matters arising under this Schedule, or
  - (b) by the Inland Revenue to the Secretary of State for the purpose of assisting the Secretary of State to discharge his functions under this Schedule.
- (2) Information obtained by such disclosure shall not be further disclosed except for the purposes of legal proceedings arising out of the functions referred to.
- (3) In this paragraph “the Inland Revenue” means any officer of the Board.

#### **Commencement Information**

**I43** Sch. 16 para. 43 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

### *Nominees*

- 44 (1) For the purposes of this Schedule—
- (a) loans made by or to, or disposed of by, a nominee for a person shall be treated as made by or to, or disposed of by, that person;
  - (b) securities or shares subscribed for by, issued to, acquired or held by or disposed of by a nominee for a person shall be treated as subscribed for by, issued to, acquired or held by or disposed of by that person.
- (2) For the purposes of sub-paragraph (1) references to things done by or to a nominee for a person include things done by or to a bare trustee for a person.

#### **Commencement Information**

**I44** Sch. 16 para. 44 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

### *Application for postponement of tax pending appeal*

- 45 No application shall be made under section 55(3) or (4) of the Taxes Management Act 1970 (c. 9) (application for postponement of payment of tax pending appeal) on the ground that a person is eligible for relief unless a claim for the relief has been duly made by the person under Part 5 of this Schedule.

#### **Commencement Information**

**I45** Sch. 16 para. 45 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

### *Meaning of “issue of securities or share”s*

- 46 (1) In this Schedule—
- (a) references (however expressed) to an issue of securities of any body are to such securities of that body as carry the same rights and are issued under the same terms and on the same day, and
  - (b) references (however expressed) to an issue of shares in any body are to such shares in that body as are of the same class and issued on the same day.
- (2) In this Schedule references (however expressed) to an issue of securities of or shares in a body to a person are references to such of the securities or shares in an issue of securities of or shares in that body as are issued to that person in one capacity.

#### **Commencement Information**

**I46** Sch. 16 para. 46 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

### *Identification of securities or shares on a disposal*

- 47 (1) In any case where—
- (a) the investor disposes of part of a holding of securities or shares (“the holding”), and

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*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

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- (b) the holding includes securities or shares to which relief is attributable in respect of one or more tax years or accounting periods that have been held continuously by the investor from the time they were issued until the disposal,

this paragraph applies for the purpose of identifying the securities or shares disposed of.

- (2) For the purposes of this paragraph “holding” means—
  - (a) any number of securities of a company carrying the same rights and issued under the same terms held by the investor in the same capacity, growing or diminishing as securities carrying those rights and issued under those terms are acquired or disposed of, or
  - (b) any number of shares in a company of the same class held by the investor in the same capacity, growing or diminishing as shares of that class are acquired or disposed of.
- (3) Where securities or shares included in the holding have been acquired by the investor on different days, then, for the purposes of capital gains tax or corporation tax on chargeable gains and of this Schedule, any disposal by the investor of any of those securities or shares shall be treated as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (4) Where securities or shares included in the holding have been acquired by the investor on the same day, then, for the purposes of capital gains tax or corporation tax on chargeable gains and of this Schedule, if there is a disposal by the investor of any of those securities or shares, any securities or shares—
  - (a) to which relief is attributable, and
  - (b) which have been held by the investor continuously from the time they were issued until the time of disposal,shall be treated as disposed of after any other securities or shares included in the holding which were acquired by the investor on that day.
- (5) Chapter 1 of Part 4 of the 1992 Act (share pooling, etc) shall have effect subject to this paragraph.
- (6) Sections 104 to 107 of that Act (which make provision for the purposes of capital gains tax and corporation tax on chargeable gains for the identification of securities and shares on a disposal) shall not apply to securities or shares to which relief is attributable.
- (7) In a case to which section 127 of that Act (equation of original shares and new holding) applies, shares comprised in the new holding shall be treated for the purposes of sub-paragraphs (3) and (4) as acquired when the original shares were acquired.
- (8) In sub-paragraph (7)—
  - (a) the reference to section 127 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and
  - (b) “original shares” and “new holding” have the same meaning as in section 127 or (as the case may be) that section as applied by virtue of the enactment in question.

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16. (See end of Document for details)*

**Commencement Information**

**I47** Sch. 16 para. 47 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Meaning of “disposal”*

- 48 (1) Subject to sub-paragraph (2), in this Schedule “disposal” shall be construed in accordance with the 1992 Act, and cognate expressions shall be construed accordingly.
- (2) An investor shall be treated for the purposes of this Schedule, and for the purposes of capital gains tax or corporation tax on chargeable gains, as disposing of any securities or shares which but for paragraph 41 he—
- (a) would be treated as exchanging for other securities or shares by virtue of section 136 of the 1992 Act, or
  - (b) would be so treated but for section 137(1) of the 1992 Act (which restricts section 136 of that Act to bona fide reconstructions).

**Commencement Information**

**I48** Sch. 16 para. 48 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Construction of references to investment being “held continuously”*

- 49 (1) This paragraph applies where for the purposes of this Schedule it falls to be determined whether the investor has held the investment (or any part of it) continuously throughout any period.
- (2) The investor shall not be treated as having held the investment (or any part of it) continuously throughout a period if—
- (a) he is deemed, under any provision of the 1992 Act, to have disposed of and immediately reacquired the investment (or part) at any time during the period, or
  - (b) he is treated as having disposed of the investment (or part) at any such time, by virtue of paragraph 48(2).

**Commencement Information**

**I49** Sch. 16 para. 49 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Meaning of “associate”*

- 50 (1) In this Schedule “associate”, in relation to a person, means—
- (a) any relative or partner of that person,
  - (b) the trustee or trustees of any settlement in relation to which that person, or any relative of his (living or dead), is or was a settlor, and
  - (c) where that person is interested in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person—

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- (i) the trustee or trustees of the settlement concerned or, as the case may be, the personal representatives of the deceased, and
  - (ii) if that person is a company, any other company interested in those shares or obligations.
- (2) In sub-paragraph (1)(a) and (b) “relative” means [<sup>F4</sup>spouse or civil partner], parent or remoter forebear or child or remoter issue.
- (3) In sub-paragraph (1)(b) “settlor” and “settlement” have the same meaning as in [<sup>F5</sup>Chapter 5 of Part 5 of the Income Tax (Trading and Other Income) Act 2005 (see section 620 of that Act)].

#### Textual Amendments

- F4** Words in Sch. 16 para. 50(2) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **135**
- F5** Words in Sch. 16 para. 50(3) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 577\(3\)](#) (with Sch. 2)

#### Commencement Information

- I50** Sch. 16 para. 50 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

#### Minor definitions etc

- 51 (1) In this Schedule—
- “the Board” means the Commissioners of Inland Revenue;
  - “body” includes an unincorporated association;
  - “relief” means relief under Part 5 of this Schedule;
  - “tax year” means a year of assessment;
  - “the 1992 Act” means the Taxation of Chargeable Gains Act 1992 (c. 12).
- (2) For the purposes of this Schedule 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.
  - (3) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this Schedule.
  - (4) For the purposes of this Schedule the market value at any time of any asset is 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.
  - (5) In this Schedule—
    - (a) references to relief obtained by the investor in respect of any investment (or part of an investment) include references to relief obtained by the investor in respect of that investment (or part) at any time after the investor has disposed of it, and
    - (b) references to the withdrawal or reduction of relief obtained by the investor in respect of the investment (or any part of it) include references to the withdrawal or reduction of relief obtained in respect of that investment (or part) at any such time.
  - (6) In the case of any condition that cannot be satisfied until a future date—

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- (a) references in this Schedule to a condition being satisfied for the time being are to nothing having occurred to prevent its being satisfied, and
- (b) references to its continuing to be satisfied are to nothing occurring to prevent its being satisfied.

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**Commencement Information**

**I51** Sch. 16 para. 51 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)

*Index of defined expressions*

52 In this Schedule the following expressions are defined or otherwise explained by the provisions indicated:

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associate	paragraph 50
the Board	paragraph 51(1)
body	paragraph 51(1)
the CDFI	paragraph 1(2)
disposal	paragraph 48
the five year period	paragraph 3
held continuously (in relation to securities or shares)	paragraph 49
the invested amount	paragraph 21
the investment	paragraph 1
the investment date	paragraph 3
the investor	paragraph 1
issue of securities or shares	paragraph 46
owner (in relation to a loan)	paragraph 15(2)
the 1992 Act	paragraph 51(1)
period of restriction	paragraph 33
relief	paragraph 51(1)
tax relief certificate	paragraph 12

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**Commencement Information**

**I52** Sch. 16 para. 52 in force at 23.1.2003 by [S.I. 2003/88](#), [arts. 2, 3](#)



**Status:**

Point in time view as at 05/12/2005.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 16.