
Changes to legislation: *Income Tax (Earnings and Pensions) Act 2003, Paragraph 17 is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 5

ENTERPRISE MANAGEMENT INCENTIVES

PART 3

QUALIFYING COMPANIES

Excluded activities: wholesale and retail distribution

- 17 (1) This paragraph supplements paragraph 16(b).
- (2) A trade of wholesale distribution is one in which the goods are offered for sale and sold to persons—
- (a) for resale by them, or
 - (b) for processing and resale by them,
- to members of the general public for their use or consumption.
- (3) 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.
- (4) A trade is not an ordinary trade of wholesale or retail distribution if—
- (a) it consists, to a substantial extent—
 - (i) in dealing in goods of a kind which are collected or held as an investment, or
 - (ii) in that activity and any other excluded activity taken together, and
 - (b) 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.
- (5) In determining whether a trade carried on by any person (“P”) is an ordinary trade of wholesale or retail distribution, consideration must be given to the extent to which it has the following features—
- (a) the goods are bought by P in quantities larger than those in which P sells them;
 - (b) the goods are bought and sold by P in different markets;
 - (c) P employs staff and incurs expenses in the trade in addition—
 - (i) to the cost of the goods, and
 - (ii) in the case of a trade carried on by a company, to any remuneration paid to any person connected with it;
 - (d) there are purchases or sales from or to persons who are connected with P;
 - (e) purchases are matched with forward sales or vice versa;

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- (f) the goods are held by P for longer than is normal for goods of the kind in question;
 - (g) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;
 - (h) P does not take physical possession of the goods.
- (6) The features in sub-paragraph (5)(a) to (c) are indications that the trade is such an ordinary trade.
- (7) Those in sub-paragraph (5)(d) to (h) are indications to the contrary.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 452(2)(aa) inserted by [2013 c. 29 Sch. 23 para. 11](#)
- s. 707A inserted by [2024 c. 3 s. 36\(4\)](#)