

*Status: Point in time view as at 19/07/2007.*

*Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Paragraph 19 is up to date with all changes known to be in force on or before 04 July 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)*

## SCHEDULES

### SCHEDULE 5

#### ENTERPRISE MANAGEMENT INCENTIVES

#### PART 3

#### QUALIFYING COMPANIES

*Excluded activities: receipt of royalties or licence fees*

- 19 (1) This paragraph supplements paragraph 16(e) (receipt of royalties or licence fees).
- (2) If the requirement of sub-paragraph (3) is met, a trade is not to be regarded as consisting in the carrying of excluded activities within paragraph 16(e) as a result only of its consisting to a substantial extent in the receiving of royalties or licence fees.
- (3) The requirement of this sub-paragraph is that the royalties or licence fees (or all of them except for a part that is not substantial in terms of value) are attributable to the exploitation of relevant intangible assets.
- (4) For this purpose a “relevant intangible asset” is an intangible asset the whole or greater part of which (in terms of value) has been created—
- [<sup>F1</sup>(a) by the relevant company, or
- (b) by a company which was a qualifying subsidiary of the relevant company throughout a period during which it created the whole or greater part (in terms of value) of the intangible asset.]
- (5) In the case of an intangible asset which is intellectual property, any reference in sub-paragraph (4) to the creation of the asset by a company is to its creation in circumstances in which the right to exploit it vests in the company (either alone or jointly with others).
- (6) In sub-paragraph (5) “intellectual property” means—
- (a) any patent, trade mark, registered design, copyright, design right, performer’s right or plant breeder’s right; or
- (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).
- (7) In this paragraph “intangible asset” means any asset which falls to be treated as an intangible asset in accordance with generally accepted accounting practice.
- [<sup>F2</sup>(8) If—
- (a) the relevant company acquired all the shares (“old shares”) in another company (“the old company”) at a time when the only shares issued in the relevant company were subscriber shares, and

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(b) the consideration for the old shares consisted wholly of the issue of shares in the relevant company,  
references in sub-paragraph (4) to the relevant company include the old company.]

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**Textual Amendments**

- F1** Sch. 5 para. 19(4)(a)(b) substituted (with effect in accordance with s. 61(2)-(6) of the amending Act) by Finance Act 2007 (c. 11), s. **61(1)(a)**
- F2** Sch. 5 para. 19(8) inserted (with effect in accordance with s. 61(2)-(6) of the amending Act) by Finance Act 2007 (c. 11), s. **61(1)(b)**

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