



Income Tax Act 2007

2007 CHAPTER 3

PART 6

VENTURE CAPITAL TRUSTS

CHAPTER 2

VCT RELIEF

Entitlement to relief

261 Eligibility for relief

- (1) An individual (“A”) is eligible for VCT relief for a tax year if—
 - (a) a VCT issues eligible shares to A in that year,
 - (b) the VCT issues the shares for raising money, and
 - (c) A subscribes for the shares on A's own behalf.
- (2) The amount in respect of which A is eligible for VCT relief for the tax year by reference to any shares is the amount subscribed by A for the shares.
- (3) A is eligible for VCT relief by reference to any shares only if—
 - (a) the shares are both subscribed for and issued—
 - (i) for genuine commercial reasons, and
 - (ii) not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax, and
 - (b) A is at least 18 years old when the shares are issued.
- (4) A is not eligible for VCT relief by reference to any shares if they are treated as issued to A by virtue of section 195(8) of FA 2003 (tax treatment of disposal by company of its own shares).

Status: Point in time view as at 21/07/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2. (See end of Document for details)

See section 271(4) for provision requiring the giving of notices about the effect of this subsection.

262 Entitlement to claim relief

- (1) An individual (“A”) who is eligible for VCT relief by reference to shares issued in a tax year is entitled to claim VCT relief for that year.
- (2) A is entitled to claim VCT relief in respect of the amount on which A is eligible for VCT relief by reference to all or some of the shares.

This is subject to subsection (3).

- (3) A is not entitled to claim VCT relief for any tax year on an amount of more than £200,000.

263 Form and amount of relief

- (1) An individual who—
 - (a) is entitled to claim VCT relief for a tax year, and
 - (b) claims such relief for the year on any amount,
 is entitled to a tax reduction for the year.
- (2) The tax reduction is equal to 30% of the amount in respect of which the claim is made.
- (3) The tax reduction is given effect at Step 6 of the calculation in section 23.

264 No entitlement to relief if there is a linked loan

- (1) An individual is not entitled to VCT relief by reference to any shares (“the relevant shares”) if a linked loan is made by any person, at any time in the relevant period, to the individual or an associate of the individual.
- (2) References in this section to the making by any person of a loan to an individual or any associate of the individual include references—
 - (a) to the giving by that person of any credit to the individual or any associate of the individual, and
 - (b) to the assignment to that person of any debt due from the individual or any associate of the individual.
- (3) In this section—

“linked loan” means a loan which—

 - (a) would not have been made, or
 - (b) would not have been made on the same terms,

if the individual had not subscribed for the relevant shares or had not been proposing to do so,

“the relevant period”, in relation to VCT relief in respect of any shares in a company which is a VCT, means the period—

 - (a) beginning with—
 - (i) the incorporation of the company, or
 - (ii) if later, the date two years before the issue of the shares, and

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(b) ending immediately before the fifth anniversary of that issue.

265 No entitlement to relief which would have been lost if it had already been obtained

An individual is not entitled to VCT relief by reference to any shares if circumstances have arisen which would have resulted in the withdrawal or reduction of the relief, if that relief had already been obtained.

Loss of relief

266 Loss of relief if shares disposed of within 5 years

- (1) This section applies, subject to section 267 (spouses or civil partners), if an individual—
 - (a) obtains VCT relief in respect of eligible shares in a VCT, and
 - (b) makes a disposal of those shares within 5 years of their issue to the individual.
- (2) In the case of a disposal that is made otherwise than by way of a bargain made at arm's length, any VCT relief obtained by reference to the shares which are disposed of is to be withdrawn.
- (3) In the case of a disposal that is made by way of a bargain made at arm's length, any VCT relief obtained by reference to the shares disposed of must—
 - (a) if it is greater than A, be reduced by A, and
 - (b) in any other case, be withdrawn.
- (4) A is 30% of the amount or value of the consideration which the individual receives for the shares.
- (5) The rules in subsections (6) and (7) are for determining which eligible shares of any class are treated as disposed of for the purposes of—
 - (a) this section, and
 - (b) section 267,if a person disposes of some but not all of the eligible shares of that class which the person holds in a company.
- (6) Shares acquired on an earlier day are treated as disposed of before shares acquired on a later day.
- (7) Shares acquired on the same day are treated as disposed of in the following order—
 - (a) shares by reference to which VCT relief has not been obtained, and
 - (b) shares by reference to which VCT relief has been obtained.

267 Transfers of shares between spouses or civil partners

- (1) Section 266 does not apply in the case of any disposal of shares made by an individual to the individual's spouse or civil partner, if it is made at a time when they are living together.
- (2) Subsection (3) applies if any eligible shares which—
 - (a) have been issued to any individual (“the transferor”), and

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- (b) are shares by reference to which any VCT relief has been obtained, are transferred to the transferor's spouse or civil partner ("the transferee") by a disposal such as is mentioned in subsection (1).
- (3) If this subsection applies, section 266 and subsection (2) 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 shares had been issued to the transferee at the time when they were issued to the transferor,
 - (c) there had been, in relation to the transferred shares, such a reduction by way of VCT relief in the transferee's liability to income tax as is equal to the actual reduction in respect of those shares of the transferor's liability, and
 - (d) that deemed reduction were (despite the transfer) to be treated for the purposes of section 266 as an amount of VCT relief obtained by reference to the shares transferred.
- (4) Any assessment for withdrawing or reducing VCT relief because of a disposal or other event falling within subsection (3) is to be made on the transferee.

268 Loss of relief if VCT approval withdrawn

- (1) This section applies if—
- (a) the approval of any company as a VCT is withdrawn, and
 - (b) the withdrawal of the approval is not one to which section 281(3) (VCT approval treated as never having been given) applies.
- (2) Any person who, at the time when the withdrawal takes effect, is holding any shares issued by the company by reference to which VCT relief has been obtained is treated for the purposes of section 266 as having disposed of those shares—
- (a) immediately before that time, and
 - (b) otherwise than by way of a bargain made at arm's length.

269 Loss of relief which is subsequently found not to have been due

Any VCT relief obtained which is subsequently found not to have been due is to be withdrawn.

270 Assessment on withdrawal or reduction of relief

- (1) An assessment for withdrawing or reducing VCT relief under any of sections 266 to 269 must be made for the tax year for which the relief was obtained.
- (2) No assessment for withdrawing or reducing VCT relief obtained by reference to shares issued to any individual may be made because of any event occurring after the individual's death.

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Supplementary

271 Provision of information

- (1) If an event occurs that results in any VCT relief falling to be withdrawn or reduced, the individual by whom the relief was obtained must, within 60 days of coming to know of the event, give notice to an officer of Revenue and Customs containing particulars of the event.
- (2) If an officer of Revenue and Customs has reason to believe that a person has not given a notice which the person is required to give under subsection (1), the officer may by notice require the person to provide the officer, within such time as may be specified in the notice, with such information relating to the event as the officer may reasonably require for the purposes of the provisions of this Chapter.
- (3) The period specified in a notice under subsection (2) must be at least 60 days.
- (4) If a company which is a VCT issues to any individual eligible shares to which section 261(4) applies, it must—
 - (a) at the time of the issue of those shares, give the individual a notice stating that the individual is not eligible for VCT relief by reference to those shares, and
 - (b) not later than 3 months after the issue of those shares, give a copy of that notice to an officer of Revenue and Customs.
- (5) No obligation as to secrecy imposed by statute or otherwise prevents an officer of Revenue and Customs from disclosing to a VCT that VCT relief has been obtained by reference to a particular number or proportion of its shares.

272 Regulations as to procedure etc

- (1) This section applies to VCT relief and relief for which the following provide—
 - (a) section 151A of TCGA 1992 (VCTs: reliefs),
 - (b) Schedule 5C to TCGA 1992 (VCTs: deferred charge on re-investment),
 - (c) Chapter 5 of Part 6 of ITTOIA 2005 (VCT dividends), and
 - (d) regulations under Chapter 5 of this Part.
- (2) The Treasury may by regulations make such provision as they consider appropriate for—
 - (a) giving effect to relief to which this section applies, and
 - (b) preventing such relief from being given unless a claim is made in accordance with the regulations and such other requirements as may be imposed by the regulations have been met.
- (3) Regulations under this section may make provision as to the manner in which, and the persons by whom, relief to which this section applies is to be claimed.

273 Interpretation of Chapter

- (1) In this Chapter “eligible shares”, in relation to a company which is a VCT, means ordinary shares in the VCT which, throughout the period of 5 years beginning on the date on which they are issued, carry—
 - (a) no present or future preferential right to dividends or to a company's assets on its winding up, and

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- (b) no present or future right to be redeemed.
- (2) In this Chapter references to a disposal of shares include references to a disposal of an interest or right in or over shares.

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