



Income Tax Act 2007

2007 CHAPTER 3

PART 6

VENTURE CAPITAL TRUSTS

CHAPTER 5

POWERS: WINDING UP AND MERGERS OF VCTS

Winding up

314 Power to treat VCT-in-liquidation as VCT

- (1) Regulations may make provision for tax enactments specified by the regulations to have effect as if—
- (a) a VCT-in-liquidation that is not a VCT were, or were during any prescribed period of its winding up, a VCT,
 - (b) VCT approval withdrawn from a company—
 - (i) at any time during the period when it is a VCT-in-liquidation, or
 - (ii) at any time during a prescribed part of that period,were withdrawn at a prescribed time (and not at the time when it is actually withdrawn).
- (2) In this section “prescribed” means specified by, or determined under, regulations.

315 Power to treat conditions for VCT approval as met with respect to VCT-in-liquidation

- (1) Regulations may make provision for conditions mentioned in section 274(2) (conditions for approval as a VCT) to be treated for the purposes of section 274(1) as met, or as conditions that will be met, with respect to a VCT-in-liquidation.

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- (2) Provision under subsection (1) may be made so as to apply in relation to a VCT-in-liquidation—
- (a) throughout its winding up, or
 - (b) during prescribed periods of its winding up.
- (3) Regulations may, for purposes of tax enactments specified by the regulations, make provision for VCT approval to be treated as having been withdrawn, with effect from a time specified by or determined under the regulations, from a VCT-in-liquidation from which the Commissioners for Her Majesty's Revenue and Customs would have power to withdraw such approval but for provision made under subsection (1).

316 Power to make provision about distributions by VCT-in-liquidation

- (1) Regulations may make provision for tax enactments specified by the regulations—
- (a) to apply in relation to distributions from a VCT-in-liquidation (including, in particular, distributions in the course of dissolving it or winding it up),
 - (b) not to apply in relation to such distributions,
 - (c) to apply in relation to such distributions with modifications specified by the regulations.
- (2) Provision under subsection (1) may be made so as to apply in relation to distributions from a VCT-in-liquidation made—
- (a) at any time during its winding up, or
 - (b) during periods of its winding up specified by, or determined under, regulations.

317 Power to facilitate disposal to VCT by VCT-in-liquidation

- (1) Regulations may make provision authorised by subsection (2) for cases where shares in or securities of a company are acquired by a VCT from a VCT-in-liquidation.
- (2) The provision that may be made under subsection (1) for such a case is—
- (a) provision for conditions mentioned in section 274(2) (conditions for approval as a VCT) to be treated for the purposes of section 274(1) as met, or as conditions that will be met, with respect to the VCT in relation to periods ending after the acquisition,
 - (b) provision for the shares or securities acquired to be treated, at times after the acquisition when they are held by the VCT, as meeting the requirements of Chapter 4 (provisions for determining whether shares or securities form part of qualifying holdings), and
 - (c) provision for shares in the VCT issued in connection with the acquisition of the shares or securities from the VCT-in-liquidation and either—
 - (i) issued to a person who is a member of the VCT-in-liquidation, or
 - (ii) issued to the VCT-in-liquidation and distributed by it in the course of its winding up or dissolution to a person who is one of its members,
 to be treated, for the purposes of Schedule 5C to TCGA 1992 (VCTs: deferred charge on re-investment), as representing shares in the VCT-in-liquidation held by that person.
- (3) Provision under subsection (1) may be made so as to apply in relation to shares or securities acquired from a VCT-in-liquidation—

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- (a) at any time during its winding up, or
 - (b) during periods of its winding up specified by, or determined under, regulations.
- (4) In this section “securities” means any securities and includes any liability that is a security in relation to a company because of section 285(2) (securities).

318 Power in respect of periods before and after winding up

- (1) Any power under sections 314 to 317 to make provision in relation to a VCT-in-liquidation includes power to make corresponding or similar provision in relation to—
- (a) a company for whose winding up an application has been made to a court and which is not a VCT-in-liquidation but would be if, at the time that the application was made, the court had ordered the company's winding up to commence at that time, or
 - (b) a company that has been a VCT-in-liquidation but no longer is a VCT-in-liquidation because it has been wound up.
- (2) For the purposes of making provision in reliance on subsection (1), references in sections 314 to 317 (however expressed) to a VCT-in-liquidation's winding up, or the commencement or ending of its winding up, may be taken to be references to, or to the commencement or ending of, the extension period for a company to which subsection (1) applies.
- (3) In this section—
- “the extension period”—
 - (a) in relation to a company to which subsection (1)(a) applies, means the period beginning with the making of the application and ending with the earlier of its final determination and the company becoming a company that is being wound up, and
 - (b) in relation to a company to which subsection (1)(b) applies, means the period between the end of the company's winding up and the company's dissolution, and
- “prescribed” means specified by, or determined under, regulations.

319 Sections 314 to 318: supplementary

- (1) Provision made by regulations under sections 314 to 318 applies in cases, and subject to conditions, specified by regulations.
- (2) Such provision may (but need not) be made so as to have effect in a particular case only for such period as may be specified by, or determined under, regulations.
- (3) References in sections 314 to 318 to things done by a VCT-in-liquidation include things done by a liquidator of a VCT-in-liquidation.

320 Meaning of “VCT-in-liquidation”

- (1) In this Chapter “VCT-in-liquidation” means a company—
- (a) that is being wound up (whether or not under the law of a part of the United Kingdom and whether under the law of one, or more than one, territory),
 - (b) that was a VCT immediately before the commencement of its winding up, and

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- (c) whose winding up is for genuine commercial reasons and is not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (2) Regulations may, for purposes of this Chapter, make provision as to when a company's winding up is to be treated as commencing or ending in a case where it is wound up otherwise than under the law of a part of the United Kingdom or otherwise than under the law of a single territory.

Mergers

321 Power to facilitate mergers of VCTs

- (1) Regulations may make provision authorised by section 322 for cases where—
- (a) there is a merger of two or more companies each of which is a VCT immediately before the merger begins to be effected, and
 - (b) the merger is for genuine commercial reasons and is not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (2) Provision made by regulations under subsection (1) applies—
- (a) in cases, and
 - (b) subject to conditions (including conditions requiring approvals to be obtained),
- specified by the regulations.

322 Provision that may be made by regulations under section 321

- (1) The provision that may be made under section 321(1) for a case where there is a merger of two or more companies (“the merging companies”) is as follows.
 - (2) Provision for the successor company, or any of the merging companies, to be treated (whether at times before, during or after the merger) as a VCT for purposes of tax enactments specified by regulations.
 - (3) Provision for section 266 (loss of relief on disposal of VCT shares within 5 years of their issue) not to apply in the case of disposals of shares in a merging company made in the course of effecting the merger.
 - (4) Provision for such disposals not to be chargeable events for the purposes of Schedule 5C to TCGA 1992 (VCTs: deferred charge on re-investment).
 - (5) Provision for conditions mentioned in section 274(2) (conditions for approval as a VCT) to be treated (whether at times before, during or after the merger) for purposes of section 274(1) as met, or as conditions that will be met, with respect to the successor company or any of the merging companies.
- [^{F1}(5A) Provision for section 281(1)(f) (withdrawal of VCT approval where company has made a repayment of share capital etc) not to apply, or to apply subject to modifications, to the successor company or any of the merging companies, in relation to payments made, or amounts used to pay up new shares, in connection with or after the merger.]

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- (6) Provision for shares in or securities of a company that are acquired (whether at times before, during or after the merger) by the successor company from a merging company to be treated, at times after the acquisition when they are held by the successor company, as meeting requirements of Chapter 4 (provisions for determining whether shares or securities held by a VCT form part of its qualifying holdings).
- (7) Provision for tax enactments specified by regulations to apply, with or without adaptations, in relation to the merger or transactions taking place (whether before, during or after the merger) in connection with the merger.
- (8) Provision authorising disclosure for tax purposes connected with the merger—
 - (a) by Her Majesty's Revenue and Customs,
 - (b) to any of the merging companies or the successor company,
 - (c) of any information provided to Her Majesty's Revenue and Customs by or on behalf of any of the merging companies or the successor company.

Textual Amendments

F1 S. 322(5A) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 10 para. 4](#)

323 Meaning of “merger” and “successor company”

- (1) For the purposes of this Chapter there is a merger of two or more companies (“the merging companies”) if—
 - (a) shares in one of the merging companies (“company A”) are issued to members of the other merging company or companies, and
 - (b) the shares issued to members of the other merging company or, in the case of each of the other merging companies, the shares issued to members of that other company, are issued—
 - (i) in exchange for their shares in that other company, or
 - (ii) by way of consideration for a transfer to company A of the whole or part of the business of that other company.
- (2) For the purposes of this Chapter there is also a merger of two or more companies (“the merging companies”) if—
 - (a) shares in a company (“company B”) that is not one of the merging companies are issued to members of the merging companies, and
 - (b) in the case of each of the merging companies, the shares issued to members of that company are issued—
 - (i) in exchange for their shares in that company, or
 - (ii) by way of consideration for a transfer to company B of the whole or part of the business of that company.
- (3) In this Chapter “the successor company”—
 - (a) in relation to a merger such as is described in subsection (1), means the company that performs the role of company A, and
 - (b) in relation to a merger such as is described in subsection (2), means the company that performs the role of company B.

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Supplementary

324 Regulations under Chapter

- (1) Regulations under this Chapter may—
- (a) contain such administrative provisions (including provision for advance clearance and provision for the withdrawal of clearances) as appear to the Treasury to be necessary or appropriate,
 - (b) authorise the Commissioners for Her Majesty's Revenue and Customs to give notice to any person requiring that person to provide such information, specified in the notice, as they may reasonably require in order to determine whether any conditions imposed by regulations under this Chapter are met,
 - (c) make different provision for different cases,
 - (d) contain incidental, supplemental, consequential and transitional provision and savings, and
 - (e) include provision having retrospective effect.
- (2) Without prejudice to any specific provision of this Chapter, a power conferred by any provision of this Chapter to make regulations includes power to provide for Her Majesty's Revenue and Customs to exercise a discretion in dealing with any matter.

325 Interpretation of Chapter

In this Chapter—

“regulations” means regulations made by the Treasury, and

“tax enactments” means provisions of or made under—

- (a) the Tax Acts,
- (b) TCGA 1992 or any other enactment relating to capital gains tax, or
- (c) TMA 1970.

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