*These notes refer to the Finance Act 2014 (c.26) which received Royal Assent on 17 July 2014*

# FINANCE ACT 2014

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## EXPLANATORY NOTES

### INTRODUCTION

***Section 53 and Schedule 10: Venture Capital Trusts***

#### Summary

1. This section and Schedule make several changes to the Venture Capital Trust ('VCT') legislation at Part 6 of the Income Tax Act 2007.

#### Details of the Schedule

2. Paragraph 1 amends section 270 of Income Tax Act 2007, which provides that an assessment for withdrawing or reducing VCT relief must be made for the tax year for which the relief was obtained. The amendment inserts a time limit of 6 years after the end of that tax year, within which any such assessment must be made. This overrides the general time limit for making assessments, provided for in section 34 Taxes Management Act 1970.

3. Paragraph 2 introduces a new section 264A which imposes restrictions on the availability of VCT income tax relief in respect of a subscription for shares in a VCT, in certain circumstances. New section 264A takes effect in relation to shares issued on or after 6 April 2014.

4. New sections 264A(1), (2) and (3) reduce the amount subscribed for shares in a VCT on which income tax relief may be claimed, by the amount of consideration the investor has received for a sale of shares which is "linked" to the subscription for shares.

5. New sections 264A(4), (5) and (6) explain what is meant by a "linked" sale of shares in this context. A sale is "linked" if an individual has sold shares in the same VCT as the VCT in which the investor has subscribed for shares, or in a VCT which is treated as a successor or predecessor of that VCT, and either the subscription for shares is in any way conditionally linked with the share sale, or the subscription and sale are within 6 months of each other.

6. New section 264A(7) explains what is meant by a "successor" or a "predecessor" VCT for this purpose. Where there has been a merger of two VCTs and section 323 ITA applies to treat one VCT as succeeding another, then for the purpose of section 264A those VCTs are regarded as "successor" or "predecessor" as appropriate. Where a new holding company has been inserted above an existing VCT and section 327 ITA applies to treat the holding company as fulfilling the VCT requirements, then the new holding company and the original VCT are treated for the purpose of section 264A as "successor" and "predecessor" companies as appropriate.

7. New section 264A(8) provides that the restriction does not apply to subscriptions for shares which are funded by the reinvestment of dividends payable by the VCT to the individual in respect of shares already held in the VCT.

8. Paragraph 3 amends section 281, which lists the circumstances in which HM Revenue and Customs may withdraw approval from a VCT. The amendment applies in respect of shares issued by a VCT on or after 6 April 2014.

9. New subsection 281(1)(f) requires a VCT's approval to be withdrawn if the company makes a payment to any of its shareholders which represents a repayment of the share capital subscribed for. This includes repayment of any share premium. This also includes a situation where a company uses an amount representing share capital or share premium to fund the issue of new shares to its shareholders.

10. The restriction applies only during a defined "restricted period" following an issue of shares. That period is the period of 3 years from the end of the company's accounting period during which the shares were issued.

11. The restriction does not apply to payments made by the company to redeem or repurchase its shares, nor does it apply to payments which are distributions of assets made in the course of the company's winding up.

12. New subsection 281(1A) provides key definitions for the purpose of new section 281(1)(f), including the definition of "restricted period"; "payment" and "reduction of share capital".

13. Paragraph 4 introduces a new section 330A, which provides that an individual will qualify for income tax relief on a subscription in VCT shares if that subscription is made on the individual's behalf by a nominee. The tax treatment of holdings of shares or disposals of shares in a VCT will follow in the same way whether the shares are held or disposed of by an individual, or by a nominee acting on behalf of the individual. Section 330A took effect from the date Finance Bill 2014 received Royal Assent.

14. Paragraph 4(2) amends section 284 ITA to ensure that any regulations made as to VCT procedures may apply to nominees as well as to other persons holding VCT shares.

## Background Note

15. The VCT regime exists to provide access to finance for qualifying small and medium trading companies, by offering a range of tax reliefs to individuals who invest in VCTs which in turn invest on into such companies. This measure will ensure that the regime continues to be well-targeted and to provide value for money.