



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART IX

ANNUAL PAYMENTS AND INTEREST

Relief for payments of interest (excluding MIRAS)

360 Loan to buy interest in close company

- (1) Subject to the following provisions of this section and sections 361 to 364, interest is eligible for relief under section 353 if it is interest on a loan to an individual to defray money applied—
- (a) in acquiring any part of the ordinary share capital of a close company satisfying any of the conditions of section 424(4); or
 - (b) in lending money to such a close company which is used wholly and exclusively for the purposes of the business of the company or of any associated company of it which is a close company satisfying any of those conditions; or
 - (c) in paying off another loan interest on which would have been eligible for relief under section 353 had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest);
- and either the conditions stated in subsection (2) below or those stated in subsection (3) below are satisfied.
- (2) The conditions first referred to in subsection (1) above are—
- (a) that, when the interest is paid, the company continues to satisfy any of the conditions of section 424(4) and the individual has a material interest in the company; and
 - (b) that he shows that in the period from the application of the proceeds of the loan to the payment of the interest he has not recovered any capital from the company, apart from any amount taken into account under section 363(1); and

Status: This is the original version (as it was originally enacted).

- (c) that, if the company exists wholly or mainly for the purpose of holding investments or other property, no property held by the company is used as a residence by the individual;

but the condition in paragraph (c) above shall not apply in a case where the individual has worked for the greater part of his time in the actual management or conduct of the business of the company, or of an associated company of the company.

- (3) The conditions secondly referred to in subsection (1) above are—
- (a) that, when the interest is paid, the company continues to satisfy any of the conditions of section 424(4) and the individual holds any part of the ordinary share capital of the company; and
 - (b) that in the period from the application of the proceeds of the loan to the payment of the interest the individual has worked for the greater part of his time in the actual management or conduct of the company or of an associated company of the company; and
 - (c) that he shows in the period from the application of the proceeds of the loan to the payment of the interest he has not recovered any capital from the company, apart from any amount taken into account under section 363(1).

- (4) In this section expressions to which a meaning is assigned by Part XI have that meaning, but—

- (a) in relation to any loan made after 5th April 1987, paragraph 39 of Schedule 9 shall have effect for determining whether the interest on the loan is eligible for relief under section 353 by virtue of this section; and
- (b) in relation to any loan made before 14th November 1986, section 417 shall have effect subject to the following modifications—
 - (i) in subsection (3)(c) for the words following “deceased person” there shall be substituted the words “subject to subsection (3A) below, any other person interested therein”; and
 - (ii) after subsection (3) there shall be added—

“(3A) Subsection (3)(c) above shall not apply so as to make an individual an associate as being entitled or eligible to benefit under a trust—

- (a) if the trust relates exclusively to an exempt approved scheme as defined in section 592; or
- (b) if the trust is exclusively for the benefit of the employees, or the employees and directors, of the company or their dependants (and not wholly or mainly for the benefit of directors or their relatives), and the individual in question is not (and could not as a result of the operation of the trust become), either on his own or with his relatives, the beneficial owner of more than 5 per cent. of the ordinary share capital of the company;

and in applying paragraph (b) above any charitable trusts which may arise on the failure or determination of other trusts shall be disregarded.”