



Finance (No. 2) Act 1997

1997 CHAPTER 58

PART III

INCOME TAX AND CORPORATION TAX

Distributions, tax credits etc: avoidance

25 Repeal of s.95(5) of the Taxes Act 1988: consequential amendments

- (1) In section 246A(9) of the Taxes Act 1988 (which provides that “fixed-rate preference shares” shall be construed in accordance with section 95(5)) for “section 95(5)” there shall be substituted “paragraph 13(6) of Schedule 28B”.
- (2) In Schedule 28B to the Taxes Act 1988 (venture capital trusts) paragraph 13 (general interpretation) shall be amended in accordance with subsections (3) and (4) below.
- (3) In sub-paragraph (5), paragraph (b) (which provides that “fixed-rate preference shares” has the same meaning as in section 95), and the word “and” immediately preceding that paragraph, shall be omitted.
- (4) After sub-paragraph (5) there shall be inserted—
 - “(6) In this paragraph “fixed-rate preference shares” means shares which—
 - (a) were issued wholly for new consideration;
 - (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities; and
 - (c) do not carry any right to dividends other than dividends which—
 - (i) are of a fixed amount or at a fixed rate per cent. of the nominal value of the shares, and
 - (ii) together with any sum paid on redemption, represent no more than a reasonable commercial return on the consideration for which the shares were issued;

Status: This is the original version (as it was originally enacted).

and in paragraph (a) above “new consideration” has the meaning given by section 254.”

- (5) In Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) paragraph 5 (fixed-rate preference shares) shall be amended in accordance with subsections (6) and (7) below.
- (6) In sub-paragraph (2) (which defines “fixed-rate preference shares” by reference to section 95 of the Taxes Act 1988)—
 - (a) in paragraph (a) for “section 95 of” there shall be substituted “paragraph 13 of Schedule 28B to”; and
 - (b) in paragraph (b) for “section 95(5)(c)(i) of that Act” there shall be substituted “paragraph 13(6)(c)(i) of that Schedule”.
- (7) After sub-paragraph (2) there shall be inserted—
 - (3) For the purposes of sub-paragraph (2) above, any reference in paragraph 13(6) of Schedule 28B to shares shall be taken as a reference to shares within the meaning of this Schedule.”
- (8) This section has effect on and after 2nd July 1997.