

SCHEDULES

SCHEDULE 15

THE CORPORATE VENTURING SCHEME

PART III

THE ISSUING COMPANY

Introduction

- 15 The issuing company is a qualifying issuing company in relation to the relevant shares if the requirements of this Part are met as to—
- (a) unquoted status (see paragraph 16);
 - (b) independence (see paragraph 17);
 - (c) individual-owners (see paragraph 18);
 - (d) partnerships and joint ventures (see paragraph 19);
 - (e) qualifying subsidiaries (see paragraph 20);
 - (f) gross assets (see paragraph 22); and
 - (g) trading activities (see paragraph 23).

The “unquoted status” requirement

- 16 (1) The unquoted status requirement is that, at the time the relevant shares are issued, none of the issuing company’s shares, debentures or other securities is (and there are no arrangements in existence for any of them to be)—
- (a) listed on a recognised stock exchange,
 - (b) listed on a designated exchange in a country outside the United Kingdom, or
 - (c) dealt in outside the United Kingdom by such means as may be designated.
- This is subject to sub-paragraph (3).
- (2) The unquoted status requirement applies whether or not the company is resident in the United Kingdom.
- (3) The unquoted status requirement is treated as not met if at the time the relevant shares are issued—
- (a) arrangements are in existence for the issuing company to become a subsidiary of another company (“the new company”) by virtue of an exchange of shares, or shares and securities, in relation to which paragraph 83 (certain exchanges resulting in acquisition of share capital by new company) applies, and
 - (b) arrangements have been made with a view to any of the new company’s shares, debentures or other securities being listed or dealt in as mentioned in paragraph (a), (b) or (c) of sub-paragraph (1).

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- (4) For the purposes of sub-paragraph (1) “designated” means designated by an order (“a designation order”) made for the purposes of subsection (1B) of section 312 of the Taxes Act 1988 (definition of “unquoted company” for the purposes of EIS).
- (5) Where the issuing company meets the unquoted status requirement when the relevant shares are issued, it shall not cease to meet it by virtue of—
- (a) any designation order, or
 - (b) any order under section 841 of the Taxes Act 1988 (designation of exchange as “recognised stock exchange”),
- made after that time.

The independence requirement

- 17 (1) The independence requirement is that—
- (a) the issuing company is not, at any time during the qualification period relating to the relevant shares—
 - (i) a 51% subsidiary of another company, or
 - (ii) under the control of another company (or of another company and any other person connected with that other company), without being a 51% subsidiary of that other company, and
 - (b) no arrangements are in existence at any time during that period by virtue of which the company could become such a subsidiary or fall under such control (whether during that period or otherwise).
- (2) For the purposes of sub-paragraph (1)(b) arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in paragraph 83(1) (certain exchanges resulting in acquisition of share capital by new company) shall be disregarded.
- (3) In this paragraph “control” has the meaning given by section 840 of the Taxes Act 1988.

The “individual-owners” requirement

- 18 (1) The “individual-owners” requirement is that, throughout the qualification period relating to the relevant shares, at least 20% of the ordinary share capital of the issuing company is beneficially owned by one or more independent individuals.
- (2) For the purposes of sub-paragraph (1) “independent individual” means an individual who is not, at any time during that period when he holds ordinary shares in the issuing company—
- (a) a director or employee of—
 - (i) the investing company, or
 - (ii) any company connected with that company, or
 - (b) a relative of such a director or employee.
- For this purpose “relative” means husband or wife, parent or remoter forebear or child or remoter issue.
- (3) Where part of the ordinary share capital of the issuing company forms part of the estate of a deceased person who immediately before his death—
- (a) was the beneficial owner of the shares in question, and

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(b) was an independent individual for the purposes of sub-paragraph (1), the shares in question shall, by virtue of this sub-paragraph, continue to be treated as beneficially owned by an independent individual for the purposes of sub-paragraph (1) until such time as they cease to form part of the deceased's estate.

The partnerships and joint ventures requirement

- 19 (1) The requirement as to partnerships and joint ventures is that neither the issuing company nor any of its qualifying subsidiaries is at any time during the qualification period relating to the relevant shares—
- (a) a member of a partnership falling within sub-paragraph (2), or
 - (b) a party to a joint venture falling within sub-paragraph (3).
- (2) A partnership of which the issuing company, or any of its qualifying subsidiaries, is a member falls within this paragraph at any time when—
- (a) the relevant trade is being carried on, or to be carried on, by the partners in partnership,
 - (b) the other partners include at least one other company, and
 - (c) the same person (or persons) are the beneficial owner (or owners) of more than 75% of the issued share capital or the ordinary share capital of both—
 - (i) the issuing company, and
 - (ii) at least one of the other partners.
- (3) A joint venture to which the issuing company, or any of its qualifying subsidiaries, is a party falls within this paragraph at any time when—
- (a) the relevant trade is being carried on, or to be carried on, by that party in its capacity as a party to the joint venture,
 - (b) the other parties include at least one other company, and
 - (c) the same person (or persons) are the beneficial owner (or owners) of more than 75% of the issued share capital or the ordinary share capital of both—
 - (i) the issuing company, and
 - (ii) at least one of the other parties.
- (4) For the purposes of sub-paragraphs (2) and (3)—
- (a) “the relevant trade” means any trade by reference to which the trading activities requirement is met in respect of the issuing company in relation to the relevant shares; and
 - (b) there shall be attributed to any person any issued share capital or ordinary share capital held by any other person who is an associate of his.

The qualifying subsidiaries requirement

- 20 (1) The issuing company is not a qualifying issuing company in relation to the relevant shares if, at any time during the qualification period relating to those shares, it has a subsidiary which is not a qualifying subsidiary.
- (2) For this purpose—
- (a) “subsidiary” means any company which the company controls, either on its own or together with any person connected with it; and
 - (b) the question whether a person controls a company shall be determined in accordance with section 416(2) to (6) of the Taxes Act 1988.

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Meaning of “qualifying subsidiary”

- 21 (1) A company (“the subsidiary”) is a qualifying subsidiary of another company (“the relevant company”) if the following conditions are met.
- (2) The conditions are that—
- (a) the relevant company or another of its subsidiaries possesses not less than 75% of the issued share capital of, and not less than 75% of the voting power in, the subsidiary;
 - (b) the relevant company or another of its subsidiaries would—
 - (i) in the event of a winding up of the subsidiary, or
 - (ii) in any other circumstances,
 be beneficially entitled to receive not less than 75% of the assets of the subsidiary which would then be available for distribution to the shareholders of the subsidiary;
 - (c) the relevant company or another of its subsidiaries is beneficially entitled to not less than 75% of any profits of the subsidiary which are available for distribution to the shareholders of the subsidiary;
 - (d) no person other than the relevant company or another of its subsidiaries has control of the subsidiary within the meaning of section 840 of the Taxes Act 1988; and
 - (e) no arrangements are in existence by virtue of which the conditions in paragraphs (a) to (d) would cease to be met.
- (3) The subsidiary shall not be regarded as ceasing to be a company in relation to which the conditions in sub-paragraph (2) are met by reason only of—
- (a) anything done as a consequence of the subsidiary, or any other company, being in administration or receivership, or
 - (b) the subsidiary, or any other company, being wound up or dissolved without winding up,
- if sub-paragraph (4) applies.
- (4) This paragraph applies where—
- (a) in a case within sub-paragraph (3)(a)—
 - (i) the making of the order within paragraph (a) or, as the case may be, (b) of paragraph 102(4) (administration orders and orders for appointment of receiver etc.), and
 - (ii) everything done as a consequence of the company being in administration or receivership, or
 - (b) in a case within sub-paragraph (3)(b), the winding up or dissolution, is for 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.
- (5) The subsidiary shall not be regarded, at any time when arrangements are in existence for the disposal by the relevant company or (as the case may be) by another subsidiary of that company of all its interest in the subsidiary in question, as having ceased on that account to be a qualifying subsidiary if the disposal is to be for commercial reasons and not part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.

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The gross assets requirement

- 22 (1) The gross assets requirement in the case of a single company is that the value of the company's gross assets—
- (a) does not exceed £15 million immediately before the issue of the relevant shares, and
 - (b) does not exceed £16 million immediately afterwards.
- (2) The gross assets requirement in the case of a parent company is that the consolidated value of the group assets—
- (a) does not exceed £15 million immediately before the issue of the relevant shares, and
 - (b) does not exceed £16 million immediately afterwards.
- (3) The consolidated value of the group assets means the aggregate value of the gross assets of the group, disregarding any that consist in rights against, or shares in or securities of, another group company.

The trading activities requirement

- 23 (1) The issuing company is not a qualifying issuing company in relation to the relevant shares unless it meets the trading activities requirement throughout the qualification period relating to those shares.
- (2) The trading activities requirement in the case of a single company is that the company—
- (a) disregarding any incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, and
 - (b) is carrying on a qualifying trade or preparing to do so.
- (3) The trading activities requirement in the case of a parent company is that—
- (a) the business of the group does not consist wholly or as to a substantial part in the carrying on of non-qualifying activities, and
 - (b) at least one group company—
 - (i) disregarding any incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, and
 - (ii) is carrying on a qualifying trade or preparing to do so.
- (4) For this purpose the business of the group means what would be the business of the group if the activities of the group companies taken together were regarded as one business.
- (5) The requirement of sub-paragraph (2) or (3) is not met at any time by reason of the issuing company or a subsidiary preparing to carry on a qualifying trade if the company or subsidiary does not begin to carry on the trade within two years after the issue of the relevant shares.
- (6) For the purposes of determining whether the company falls within sub-paragraph (2) (a) or (3)(b)(i), the purposes for which it exists shall be disregarded to the extent that they consist in the carrying on of the following activities—
- (a) in the case of a single company, the holding and managing of property used by the company for one or more qualifying trades carried on by it,
 - (b) in the case of a group company, any activities within sub-paragraph (7)(a), (b) or (d), and

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- (c) in any case, the holding of shares to which investment relief is attributable, unless the holding of such shares amounts to a substantial part of the company's business.
- (7) For the purposes of determining the business of a group, activities of a group company shall be disregarded to the extent that they consist in—
- (a) the holding of shares in or securities of, or the making of loans to, another group company;
 - (b) the holding and managing of property used by a group company for the purposes of one or more qualifying trades carried on by a group company;
 - (c) the holding of shares to which investment relief is attributable, unless the holding of such shares amounts to a substantial part of the company's business, or
 - (d) incidental activities of a company which meets the trading activities requirement for a single company.
- (8) In sub-paragraph (3)(a) “non-qualifying activities” means—
- (a) excluded activities other than—
 - (i) the letting of ships to which paragraph 28 applies (ships other than oil rigs or pleasure craft) in circumstances where the requirement of sub-paragraph (2) of that paragraph is met; or
 - (ii) the receiving of royalties or licence fees within paragraph 29 in circumstances where the requirements mentioned in sub-paragraph (2) of that paragraph are met; and
 - (b) activities carried on otherwise than in the course of a trade.
- (9) In this paragraph—
- (a) “incidental purposes” means purposes having no significant effect (other than in relation to incidental matters) on the extent of the activities of the company in question;
 - (b) “incidental activities” means activities carried on in pursuance of incidental purposes.

Ceasing to meet trading activities requirement by reason of administration, receivership, etc.

- 24 (1) A company which is in administration or receivership shall not be regarded as ceasing to meet the trading activities requirement by reason of anything done as a consequence of the company, or any of its qualifying subsidiaries, being in administration or receivership.

This sub-paragraph has effect subject to sub-paragraphs (2) and (3).

- (2) Sub-paragraph (1) applies only if—
- (a) the making of the order within paragraph (a) or, as the case may be, (b) of paragraph 102(4) (administration orders and orders for appointment of receiver etc.), and
 - (b) everything done as a consequence of the company being in administration or receivership,
- is for 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.
- (3) A company ceases to meet the trading activities requirement if—

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- (a) a resolution is passed, or an order is made, for the winding up of the company or any of its qualifying subsidiaries (or, in the case of a winding up otherwise than under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989, any other act is done for the like purpose), or
- (b) the company, or any of its qualifying subsidiaries, is dissolved without winding up.

This is subject to sub-paragraph (4).

- (4) A company shall not be regarded as ceasing to meet the trading activities requirement if—
- (a) it does so by reason of the company or any of its subsidiaries being wound up or dissolved without winding up, and
 - (b) the winding up or dissolution is for commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

Meaning of “qualifying trade”

- 25 (1) A trade is a qualifying trade if—
- (a) it is carried on wholly or mainly in the United Kingdom,
 - (b) it is conducted on a commercial basis and with a view to the realisation of profits, and
 - (c) it does not consist wholly or as to a substantial part in the carrying on of excluded activities.
- (2) The carrying on of activities of research and development from which it is intended that a connected qualifying trade will be derived or benefit is treated as the carrying on of a qualifying trade.
- But preparing to carry on such activities does not count as preparing to carry on a qualifying trade.
- (3) For the purposes of sub-paragraph (2) a “connected qualifying trade” means a qualifying trade carried on—
- (a) by the company carrying on the activities of research and development, or
 - (b) if that company is a member of a group, by any other group company.

Excluded activities

- 26 (1) The following are excluded activities—
- (a) dealing in land, in commodities or futures or in shares, securities or other financial instruments;
 - (b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;
 - (c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;
 - (d) leasing (including letting ships on charter or other assets on hire) or receiving royalties or other licence fees;
 - (e) providing legal or accountancy services;
 - (f) property development;
 - (g) farming or market gardening;

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- (h) holding, managing or occupying woodlands, any other forestry activities or timber production;
- (i) operating or managing hotels or comparable establishments or managing property used as a hotel or comparable establishment; and
- (j) operating or managing nursing homes or residential care homes, or managing property used as a nursing home or residential care home.

- (2) Sub-paragraph (1) is supplemented by the following provisions—
- paragraph 27 (wholesale and retail distribution);
 - paragraph 28 (leasing of ships);
 - paragraph 29 (receipt of royalties and licence fees);
 - paragraph 30 (property development);
 - paragraph 31 (hotels and comparable establishments);
 - paragraph 32 (nursing homes and residential care homes); and
 - paragraph 33 (provision of facilities for another business).

Excluded activities: wholesale and retail distribution

- 27 (1) This paragraph supplements paragraph 26(1)(b).
- (2) A trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption.
- (3) A trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption.
- (4) A trade is not an ordinary trade of wholesale or retail distribution if—
- (a) it consists, to a substantial extent, in dealing in goods of a kind which are collected or held as an investment, or in that activity and any other excluded activity taken together, and
 - (b) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor would reasonably be expected to hold them while endeavouring to dispose of them at their market value.
- (5) In determining whether a trade carried on by any person is an ordinary trade of wholesale or retail distribution, regard shall be had to the extent to which it has the following features—
- (a) the goods are bought by that person in quantities larger than those in which he sells them;
 - (b) the goods are bought and sold by that person in different markets;
 - (c) that person employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, to any remuneration paid to any person connected with it;
 - (d) there are purchases or sales from or to persons who are connected with that person;
 - (e) purchases are matched with forward sales or vice versa;
 - (f) the goods are held by that person for longer than is normal for goods of the kind in question;

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- (g) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;
 - (h) that person does not take physical possession of the goods.
- (6) The features specified in sub-paragraph (5)(a) to (c) are indications that the trade is such an ordinary trade.

Those in sub-paragraph (5)(d) to (h) are indications of the contrary.

Excluded activities: leasing of ships

- 28 (1) This paragraph supplements paragraph 26(1)(d) so far as it relates to the leasing of ships other than oil rigs or pleasure craft.
- (2) A trade shall not be treated as not being a qualifying trade by reason only of its consisting in letting such ships on charter if the following requirements are met—
- (a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;
 - (b) every ship beneficially owned by the company is registered in the United Kingdom;
 - (c) the company is solely responsible for arranging the marketing of the services of its ships; and
 - (d) the conditions mentioned in sub-paragraph (3) are satisfied in relation to every letting of a ship on charter by the company.
- (3) The conditions are that—
- (a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the charterparty or otherwise) for extending it beyond that period otherwise than at the option of the charterer;
 - (b) during the period of the letting there is no provision in force (whether by virtue of being contained in the charterparty or otherwise) for the grant of a new letting to end, otherwise than at the option of the charterer, more than 12 months after that provision is made;
 - (c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;
 - (d) under the terms of the charter the company is responsible as principal—
 - (i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and
 - (ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period;
- and
- (e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) on behalf of the company.
- (4) In relation to any letting between one company and another where—
- (a) one of those companies is the company carrying on the trade and the other is a qualifying subsidiary of that company, or

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- (b) both companies are qualifying subsidiaries of the company carrying on the trade,
sub-paragraph (3) has effect with the omission of paragraph (c).
- (5) Where any of the requirements in sub-paragraph (2) are not met in relation to any lettings, the trade shall not thereby be treated as not a qualifying trade if those lettings and any other excluded activities do not, taken together, amount to a substantial part of the trade.
- (6) In this paragraph—
“oil rig” means any ship which is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971; and
“pleasure craft” means any ship of a kind primarily used for sport or recreation.

Excluded activities: receipt of royalties and licence fees

- 29 (1) This paragraph supplements paragraph 26(1)(d) so far as it relates to the receipt of royalties and licence fees.
- (2) A trade shall not be regarded as not being a qualifying trade by reason only that at some time in the qualification period relating to the relevant shares it consists to a substantial extent in the receiving of royalties or licence fees if the royalties and licence fees (or all but for a part that is not a substantial part in terms of value) are attributable to the exploitation of relevant intangible assets.
- (3) For this purpose an intangible asset is a “relevant intangible asset” if the whole or greater part (in terms of value) of it has been created—
(a) by the company carrying on the trade, or
(b) by a company which at all times during which it created the asset was—
(i) the parent company of the company carrying on the trade, or
(ii) a qualifying subsidiary of that parent company.
- (4) In this paragraph “intangible asset” means any asset which falls to be treated as an intangible asset in accordance with normal accounting practice.

For this purpose “normal accounting practice” means normal accounting practice in relation to the accounts of companies incorporated in any part of the United Kingdom.
- (5) In the case of a relevant asset that is intellectual property, references in this paragraph to the creation of the asset by a company are to its creation in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others).
- (6) In sub-paragraph (5) “intellectual property” means—
(a) any patent, trade mark, registered design, copyright, design right, performer’s right or plant breeder’s right; and
(b) any rights under the law of a country or territory outside the United Kingdom which correspond or are similar to those falling within paragraph (a).

Excluded activities: property development

- 30 (1) This paragraph supplements paragraph 26(1)(f).

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- (2) “Property development” means the development of land—
- (a) by a company which has, or at any time has had, an interest in the land, and
 - (b) with the sole or main object of realising a gain from the disposal of an interest in the land when it is developed.
- (3) For this purpose “interest in land” means, subject to sub-paragraph (4)—
- (a) any estate, interest or right in or over land, including any right affecting the use or disposition of land, or
 - (b) any right to obtain such an estate, interest or right from another which is conditional on the other’s ability to grant it.
- (4) References in this paragraph to an interest in land do not include—
- (a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of mortgage, an agreement for a mortgage or a charge of any kind over land, or
 - (b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.

Excluded activities: hotels and comparable establishments

- 31 (1) This paragraph supplements paragraph 26(1)(i).
- (2) The reference to a comparable establishment is to a guest house, hostel or other establishment the main purpose of maintaining which is the provision of facilities for overnight accommodation (with or without catering services).
- (3) The activities of a person shall not be taken to fall within paragraph 26(1)(i) unless that person has an estate or interest in, or is in occupation of, the hotel or comparable establishment in question.

Excluded activities: nursing homes and residential care homes

- 32 (1) This paragraph supplements paragraph 26(1)(j).
- (2) “Nursing home” means an establishment that exists wholly or mainly for the provision of nursing care—
- (a) for persons suffering from sickness, injury or infirmity, or
 - (b) for women who are pregnant or have given birth to children.
- (3) “Residential care home” means an establishment that exists wholly or mainly for the provision of residential accommodation, together with board and personal care, for persons in need of personal care by reason of—
- (a) old age,
 - (b) mental or physical disability,
 - (c) past or present dependence on alcohol or drugs,
 - (d) any past illness, or
 - (e) past or present mental disorder.
- (4) The activities of a person shall not be taken to fall within paragraph 26(1)(j) unless that person has an estate or interest in, or is in occupation of, the nursing home or residential care home in question.

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Excluded activities: provision of facilities for another business

- 33 (1) Providing services or facilities for a business carried on by another person is an excluded activity if—
- (a) the business consists to a substantial extent of excluded activities within sub-paragraph 26(1), and
 - (b) a controlling interest in the business is held by a person who also has a controlling interest in the business carried on by the company providing the services or facilities.
- (2) Sub-paragraphs (3) to (5) define what is meant by a controlling interest in a business for the purposes of sub-paragraph (1)(b).
- (3) In the case of a business carried on by a company, a person has a controlling interest if—
- (a) he controls the company,
 - (b) the company is a close company and he or an associate of his, being a director of the company, either—
 - (i) is the beneficial owner of more than 30% of the ordinary share capital of the company, or
 - (ii) is able, directly or through the medium of other companies or by any other indirect means, to control more than 30% of that share capital,
- or
- (c) not less than half of the business could, in accordance with section 344(2) of the Taxes Act 1988, be regarded as belonging to him for the purposes of section 343 of that Act.
- (4) In any other case, a person has a controlling interest in a business if he is entitled to not less than half of the assets used for, or of the income arising from, the business.
- (5) For the purposes of sub-paragraph (3)(a) the question whether a person controls a company shall be determined in accordance with section 416(2) to (6) of the Taxes Act 1988.
- (6) For the purposes of this paragraph—
- (a) there shall be attributed to any person any rights or powers of any other person who is an associate of his, and
 - (b) “business” includes any trade, profession or vocation.