

SCHEDULES

SCHEDULE 18

VENTURE CAPITAL TRUSTS: AMENDMENTS

PART II

QUALIFYING HOLDINGS

Qualifying trade: receipt of royalties or licence fees

- 5 (1) In paragraph 4 (meaning of “qualifying trade”) for sub-paragraphs (5) and (6) (trades consisting of receiving royalties and licence fees) substitute—

“(5) A trade shall not be treated as failing to comply with this paragraph by reason only that 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.

(6) 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 intangible asset was—
 - (i) the parent company of the company carrying on the trade, or
 - (ii) a qualifying subsidiary of that parent company.

(6A) In the case of a relevant asset that is intellectual property, references in sub-paragraph (6) above 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).

(6B) For the purposes of sub-paragraphs (5) to (6A) above “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.

(6C) For the purposes of sub-paragraph (6) above

- (a) “parent company” means a company that—
 - (i) has one or more 51% subsidiaries, but
 - (ii) is not itself a 51% subsidiary of another company; and

Status: This is the original version (as it was originally enacted).

- (b) paragraph 10 below (meaning of “qualifying subsidiary”) shall apply as if the references in that paragraph to the relevant company were references to the parent company referred to in sub-paragraph (6)(b) above.
- (6D) For the purposes of sub-paragraph (6A) above “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) above.”.
- (2) This paragraph has effect for the purpose of determining whether shares or securities issued on or after 6th April 2000 are, for the purposes of section 842AA of the Taxes Act 1988, to be regarded as comprised in a company’s qualifying holdings.