



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 5

ENTERPRISE INCENTIVES

93 Enterprise investment scheme

Schedule 18 (which makes amendments to the enterprise investment scheme) has effect.

94 Venture capital trusts

^{F1}(1)

^{F1}(2)

(3) Schedule 19 (which makes amendments relating to venture capital trusts) has effect.

Textual Amendments

F1 S. 94(1)(2) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

95 Corporate venturing scheme

Schedule 20 (which makes amendments relating to the corporate venturing scheme) has effect.

Status: Point in time view as at 19/07/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Chapter 5. (See end of Document for details)

96 Enterprise management incentives: subsidiaries

- (1) Schedule 5 to the Income Tax (Earnings and Pensions) Act 2003 (enterprise management incentives) is amended as follows.
- (2) In paragraph 8 (qualifying companies: introduction) after “having only qualifying subsidiaries (see paragraphs 10 and 11),” insert— “ property managing subsidiaries (see paragraphs 11A and 11B), ”.
- (3) In paragraph 10 (the qualifying subsidiaries requirement) for sub-paragraph (2) substitute—
 - “(2) In this paragraph “subsidiary” means any company which the company controls, either on its own or together with any person connected with it.
 - (3) For the purpose of sub-paragraph (2), the question whether a person controls a company is to be determined in accordance with section 416(2) to (6) of ICTA (“control” in the context of close companies).”
- (4) In paragraph 11 (meaning of “qualifying subsidiary”)—
 - (a) in sub-paragraph (2), omit paragraphs (a) to (c),
 - (b) before paragraph (d) of that sub-paragraph insert—
 - “(ca) that the subsidiary is a 51% subsidiary of the holding company;”,
 - (c) in paragraph (d) of that sub-paragraph, after “company” insert “ or another of its subsidiaries ”,
 - (d) in paragraph (e) of that sub-paragraph, for “the conditions in paragraphs (a) to” substitute “ either of the conditions in paragraphs (ca) and ”,
 - (e) omit sub-paragraph (3),
 - (f) after sub-paragraph (7) insert—
 - “(8) Sub-paragraph (9) applies at a time when the subsidiary or another company is in administration or receivership.
 - (9) The subsidiary is not to be regarded, by reason only of anything done as a consequence of the company concerned being in administration or receivership, as having ceased to be a company in relation to which the conditions in sub-paragraph (2) are met if—
 - (a) the entry into administration or receivership, and
 - (b) everything done as a consequence of the company concerned 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.
 - (10) Section 312(2A) of ICTA (meaning of being in administration or receivership) applies for the purposes of sub-paragraphs (8) and (9) as it applies for the purposes of Chapter 3 of Part 7 of ICTA (enterprise investment scheme).”
- (5) After paragraph 11 insert—

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11A “The property managing subsidiaries requirement

- (1) A company is not a qualifying company if it has a property managing subsidiary which is not a qualifying 90% subsidiary of the company (see paragraph 11B).
- (2) “Property managing subsidiary” means a qualifying subsidiary of a company whose business consists wholly or mainly in the holding or managing of land or any property deriving its value from land.
- (3) In sub-paragraph (2) “land” and “property deriving its value from land” have the same meaning as in section 776 of ICTA.

11B Meaning of “qualifying 90% subsidiary”

- (1) A company (“the subsidiary”) is a qualifying 90% subsidiary of a company (“the holding company”) if the following conditions are met.
- (2) The conditions are—
 - (a) that the holding company possesses not less than 90% of the issued share capital of, and not less than 90% of the voting power in, the subsidiary;
 - (b) that the holding company would—
 - (i) in the event of a winding up of the subsidiary, or
 - (ii) in any other circumstances, be beneficially entitled to not less than 90% of the assets of the subsidiary which would then be available for distribution to the shareholders of the subsidiary;
 - (c) that the holding company is beneficially entitled to not less than 90% of any profits of the subsidiary which are available for distribution to the shareholders of the subsidiary;
 - (d) that no person other than the holding company has control of the subsidiary; and
 - (e) that no arrangements are in existence by virtue of which any of the conditions in paragraphs (a) to (d) would cease to be met.
- (3) Sub-paragraphs (4) to (10) of paragraph 11 (but not sub-paragraph (6)(b)) apply in relation to the conditions in sub-paragraph (2) above as they apply in relation to the conditions in sub-paragraph (2) of that paragraph.”
- (6) The amendments made by this section have effect in relation to any right to acquire shares granted on or after 17th March 2004.

Status:

Point in time view as at 19/07/2007.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Chapter 5.