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SCHEDULES

SCHEDULE 16

VENTURE CAPITAL SCHEMES ETC

PART 3

EXCLUDED ACTIVITIES: RECEIPT OF ROYALTIES AND LICENCE FEES

Corporate venturing scheme

- 9 (1) Paragraph 29 of Schedule 15 to FA 2000 is amended as follows.
- (2) In sub-paragraph (3), for paragraphs (a) and (b) substitute—
- “(a) by the issuing company, or
 - (b) by a company which was a qualifying subsidiary of the issuing company throughout a period during which it created the whole or greater part (in terms of value) of the intangible asset.”
- (3) After sub-paragraph (6) insert—
- “(7) If—
 - (a) the issuing company acquired all the shares (“old shares”) in another company (“the old company”) at a time when the only shares issued in the issuing company were subscriber shares, and
 - (b) the consideration for the old shares consisted wholly of the issue of shares in the issuing company,
- references in sub-paragraph (3) to the issuing company include the old company.”
- 10 In paragraph 86(2) (substitution of new shares for old shares), after “Schedule”, in the first place it occurs, insert “;(except paragraph 29(7))”.

Enterprise investment scheme

- 11 (1) In section 297 of ICTA (qualifying trades)—
- (a) in subsection (5), for paragraphs (a) and (b) substitute—
- “(a) by the company mentioned in section 293(1), or
 - (b) by a company which was a subsidiary of that company throughout a period during which it created the whole or greater part (in terms of value) of the intangible asset.”,
- (b) in subsection (5A), omit paragraphs (b) and (c) and the words after paragraph (c), and
 - (c) after subsection (5C) insert—
- “(5D) If—

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- (a) the company mentioned in section 293(1) (“the issuing company”) acquired all the shares (“old shares”) in another company (“the old company”) at a time when the only shares issued in the issuing company were subscriber shares, and
 - (b) the consideration for the old shares consisted wholly of the issue of shares in the issuing company,
- references in subsection (5) above to the company mentioned in section 293(1) include the old company.”

- (2) In section 304A of that Act (acquisition of share capital by new company)—
- (a) in subsection (3), after “Chapter” insert “;(except section 297(5D))”, and
 - (b) in subsection (4), after “Chapter” insert “;(except section 297(5D))”.

^{F1}(3)

^{F1}(4)

- (5) In section 137 of ITA 2007 (share loss relief: trading requirement for shares to which EIS relief not attributable), after subsection (8) insert—

“(9) In section 195 as applied by subsection (7) for the purposes mentioned in subsection (8), references to the issuing company are to be read as references to the company mentioned in subsection (1).”

- (6) In section 146 of that Act (share loss relief: substitution of new shares for old), after subsection (2) insert—

“(3) Nothing in subsection (2) applies in relation to section 195(7) as applied by section 137(7) for the purposes mentioned in section 137(8).”

- (7) In section 195 of ITA 2007 (EIS: excluded activities: receipt of royalties and licence fees)—

- (a) in subsection (4), for paragraphs (a) and (b) substitute—
 - “(a) by the issuing company, or
 - (b) by a company which was a qualifying subsidiary of the issuing company throughout a period during which it created the whole or greater part (in terms of value) of the intangible asset.”,
- (b) in subsection (6), omit the definition of “holding company”, and
- (c) after that subsection insert—

“(7) If—

- (a) the issuing company acquired all the shares (“old shares”) in another company (“the old company”) at a time when the only shares issued in the issuing company were subscriber shares, and
 - (b) the consideration for the old shares consisted wholly of the issue of shares in the issuing company,
- references in subsection (4) to the issuing company include the old company.”

- (8) In section 249 of that Act (substitution of new shares for old shares)—

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- (a) in subsection (2), after “Part” insert “;(except section 195(7))”, and
- (b) in subsection (4), after “Part” insert “;(except section 195(7))”.

Textual Amendments

- F1** Sch. 16 para. 11(3)(4) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

Venture capital trusts

- 12 (1) Section 306 of ITA 2007 (qualifying holdings) is amended as follows.
- (2) In subsection (4), for paragraphs (a) and (b) substitute—
- “(a) by the relevant company, or
 - (b) by a company which was a qualifying subsidiary of the relevant company throughout a period during which it created the whole or greater part (in terms of value) of the intangible asset.”
- (3) In subsection (6), omit the definition of “holding company”.
- (4) After that subsection insert—
- “(7) If—
 - (a) the relevant company acquired all the shares (“old shares”) in another company (“the old company”) at a time when the only shares issued in the relevant company were subscriber shares, and
 - (b) the consideration for the old shares consisted wholly of the issue of shares in the relevant company,
- references in subsection (4) to the relevant company include the old company.”

Commencement

- 13 This Part of this Schedule is deemed to have come into force on 6th April 2007.

Transitional provision

- 14 (1) This paragraph applies if—
- (a) shares in or securities of a company (“the company”) were issued before 6th April 2007,
 - (b) immediately before that date—
 - (i) the right to exploit an intangible asset (“the asset”) was vested in the company or a subsidiary of it (in either case, whether alone or jointly with others), and
 - (ii) the asset was a relevant intangible asset,
 - (c) at any time on or after that date, an activity carried on by the company or a subsidiary of it would be an excluded activity by reason only of the receipt of royalties or licence fees attributable to the exploitation of the asset, and
 - (d) the activity would not be an excluded activity if the amendments made by this Part of this Schedule had not been made.

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- (2) The activity is to be treated, in relation to those shares or securities, as not being an excluded activity at that time.
- (3) In sub-paragraphs (1) and (2), references to an excluded activity are to be read—
 - (a) for the purposes of Chapter 3 of Part 7 of ICTA (including any provision of that Chapter as applied by any other provision), as references to—
 - (i) an activity within section 293(3B)(a) of ICTA, or
 - (ii) an activity within subsection (2) of section 297 of ICTA which causes a trade to fail to comply with that section,
 - (b) for the purposes of Schedule 15 to FA 2000, as references to an excluded activity other than the receiving of royalties or licence fees within paragraph 29 of that Schedule in circumstances where the requirements of sub-paragraph (2) of that paragraph are met.

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