

SCHEDULES

SCHEDULE 16

VENTURE CAPITAL SCHEMES ETC

PART 4

MEANING OF “QUALIFYING 90% SUBSIDIARY”

Corporate venturing scheme

- 15 (1) Schedule 15 to FA 2000 is amended as follows.
- (2) In paragraph 23 (trading activities requirement), omit sub-paragraphs (10) and (11).
- (3) After that paragraph insert—

“Meaning of “qualifying 90% subsidiary”

23A (1) For the purposes of this Schedule, a company (“the subsidiary”) is a qualifying 90% subsidiary of the issuing company if the following conditions are met—

- (a) the issuing 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) the issuing company 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 90% of the assets of the subsidiary which would then be available for distribution to the shareholders of the subsidiary;
- (c) the issuing 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) no person other than the issuing company has control of the subsidiary within the meaning of section 840 of the Taxes Act 1988;
- (e) no arrangements are in existence by virtue of which any of the conditions in paragraphs (a) to (d) would cease to be met.

(2) Paragraph 21(3) and (4) (effect of receivership etc) apply in relation to the conditions in sub-paragraph (1) as they apply in relation to the conditions in paragraph 21(2).

(3) If—

Status: This is the original version (as it was originally enacted).

- (a) arrangements are in existence for the disposal by the issuing company of all its interest in the subsidiary, and
 - (b) the disposal is to be for commercial reasons and is not to be part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax,
- the subsidiary is not to be regarded as having ceased on that account to be a qualifying 90% subsidiary of the issuing company.
- (4) For the purposes of this Schedule, a company (“company A”) which is a subsidiary of a company that is not the issuing company (“company B”) is a qualifying 90% subsidiary of the issuing company if—
- (a) company A would be a qualifying 90% subsidiary of company B (if company B were the issuing company), and company B is a qualifying 100% subsidiary of the issuing company; or
 - (b) company A is a qualifying 100% subsidiary of company B, and company B is a qualifying 90% subsidiary of the issuing company.
- (5) For the purposes of sub-paragraph (4), no account is to be taken of any control the issuing company may have of company A.
- (6) For those purposes, a company (“company X”) is a qualifying 100% subsidiary of another company (“company Y”) at any time when the conditions in sub-paragraph (1) would be met if—
- (a) company X were the subsidiary;
 - (b) company Y were the issuing company; and
 - (c) in sub-paragraph (1) for “not less than 90%” in each place there were substituted “100%”.
- (4) In paragraph 103 (index of defined expressions), in the entry relating to the definition of “qualifying 90% subsidiary”, for “paragraph 23(10) and (11)” substitute “paragraph 23A”.

Enterprise investment scheme etc

- 16 (1) In Chapter 3 of Part 7 of ICTA—
- (a) in section 289 (eligibility for relief), for subsections (9) to (13) substitute—
 - “(9) Section 190 of ITA 2007 (meaning of “qualifying 90% subsidiary”) applies for the purposes of this Chapter.”;
 - (b) in section 312(1) (interpretation of Chapter), in the definition of “qualifying 90% subsidiary”, omit “to (13)”.
- (2) In section 190 of ITA 2007 (EIS: meaning of “qualifying 90% subsidiary”), after subsection (1) insert—
- “(1A) For the purposes of this Part, a company (“company A”) which is a subsidiary of another company (“company B”) is a qualifying 90% subsidiary of a third company (“company C”) if—
 - (a) company A is a qualifying 90% subsidiary of company B, and company B is a qualifying 100% subsidiary of company C, or
 - (b) company A is a qualifying 100% subsidiary of company B, and company B is a qualifying 90% subsidiary of company C.

(1B) For the purposes of subsection (1A), no account is to be taken of any control company C may have of company A.

(1C) For those purposes, a company (“company X”) is a qualifying 100% subsidiary of another company (“company Y”) at any time when the conditions in subsection (1)(a) to (e) would be met if—

- (a) company X were the subsidiary,
- (b) company Y were the relevant company, and
- (c) in subsection (1) for “at least 90%” in each place there were substituted “100%”.

Venture capital trusts

17 In section 301 of ITA 2007, after subsection (1) insert—

“(1A) For the purposes of this Chapter, a company (“company A”) which is a subsidiary of a company that is not the relevant company (“company B”) is a qualifying 90% subsidiary of the relevant company if—

- (a) company A would be a qualifying 90% subsidiary of company B (if company B were the relevant company), and company B is a qualifying 100% subsidiary of the relevant company, or
- (b) company A is a qualifying 100% subsidiary of company B, and company B is a qualifying 90% subsidiary of the relevant company.

(1B) For the purposes of subsection (1A), no account is to be taken of any control the relevant company may have of company A.

(1C) For those purposes, a company (“company X”) is a qualifying 100% subsidiary of another company (“company Y”) at any time when the conditions in subsection (1)(a) to (e) would be met if—

- (a) company X were the subsidiary,
- (b) company Y were the relevant company, and
- (c) in subsection (1) for “at least 90%” in each place there were substituted “100%”.

Commencement

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