

SCHEDULES

SCHEDULE 16

VENTURE CAPITAL SCHEMES ETC

PART 5

OTHER AMENDMENTS

EIS: approved investment funds

- 19 (1) In Part 5 of ITA 2007 (enterprise investment scheme), in section 251(1)(c) (approved investment fund as nominee), for “6” substitute “12”.
- (2) The amendment made by this paragraph has effect in relation to approved funds which closed or close on or after 7 October 2006.

VCTs: disposal of holding

- 20 (1) Chapter 3 of Part 6 of ITA 2007 (VCT approvals) is amended as follows.
- (2) In section 274(3) (requirements for the giving of approval), at the end of paragraph (d) insert “, and
- (e) the 70% qualifying holdings condition by section 280A”.
- (3) After section 280 insert—

“280A The 70% qualifying holdings condition: disposal of holding

- (1) This section applies if—
- (a) a company which is a VCT disposes of shares or securities (“the holding”),
 - (b) the consideration for the disposal does not consist wholly of new qualifying holdings, and
 - (c) the holding was comprised in the company’s qualifying holdings throughout the 6 months ending immediately before the disposal.
- (2) For the purpose of determining whether the 70% qualifying holdings condition is, has been or will be met—
- (a) the company is to be treated as if it continued to hold the holding for the period of 6 months beginning with the disposal (but see subsection (4)), and
 - (b) the value of the company’s investments in that period is to be treated as reduced by the amount of any monetary consideration for the disposal.

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- (3) The value of the holding in the period mentioned in subsection (2)(a) is to be treated as equal to its value (determined in accordance with this Chapter) immediately before the disposal.
- (4) If the consideration for the disposal includes new qualifying holdings, subsection (2)(a) has effect as if the reference to the holding were to the appropriate proportion of the holding (the value of which is that proportion of the value of the holding, determined in accordance with subsection (3)).

- (5) The appropriate proportion is—

$$\frac{TC - NQH}{TC}$$

where—

TC is the market value (at the time of the disposal) of the total consideration for the disposal, and

NQH is the market value (at that time) of the new qualifying holdings.

- (6) If at any time the value of the company's investments would by virtue of subsection (2)(b) be reduced to an amount less than the value of its qualifying holdings, the value of its investments at that time is to be treated as equal to the value of its qualifying holdings.
- (7) "New qualifying holdings" means shares or securities which (on transfer to the company) are comprised in the company's qualifying holdings.
- (8) If (and to the extent that) the holding was acquired with money the use of which is at any time ignored by virtue of section 280(2), subsections (2) to (6) do not apply in relation to that time.
- (9) Nothing in this section applies in relation to disposals between companies that are merging (within the meaning of section 323)."
- (4) This paragraph is deemed to have come into force on 6th April 2007.
- (5) The amendments made by this paragraph have effect in relation to disposals made on or after that date.

VCTs: power to make regulations as to breaches of conditions

- 21 (1) In section 284 of ITA 2007 (power to make regulations as to procedure), in the existing provision (which becomes subsection (1))—
- (a) after paragraph (a) insert—
- “(aa) for and in connection with the making by a company of an application to the Commissioners for Her Majesty's Revenue and Customs (“the Commissioners”) for relief in respect of a breach (including a future breach) of the conditions for its VCT approval to continue in force,”,
- (b) in paragraph (c), for the words from “that the conditions” to the end substitute—
- “(i) that the conditions for its VCT approval to continue in force are no longer met, or

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(ii) that it is likely that those conditions will cease to be met,” and

(c) in paragraph (d) omit “for Her Majesty’s Revenue and Customs”.

(2) After subsection (1) insert—

“(2) In subsection (1)(aa), the reference to relief in respect of a breach of the conditions mentioned there is to a determination by the Commissioners that they will not exercise their power to withdraw the company’s VCT approval by reason of the breach for such period as they may determine (and subject to such conditions as they may determine).

(3) The provision that may be made by virtue of subsection (1)(aa) includes—

- (a) provision as to the procedure to be followed in relation to applications and determinations,
- (b) provision as to the grounds on which applications may be made or determined, and
- (c) provision conferring a discretion to be exercised by the Commissioners.”