



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 6

#### VENTURE CAPITAL TRUSTS

### CHAPTER 4

#### QUALIFYING HOLDINGS

#### *The requirements*

#### [<sup>F1</sup>286A The UK permanent establishment requirement

The requirement of this section, at any time on or after the issue of the relevant holding, is that the relevant company has a permanent establishment in the United Kingdom at all times from the issue of the holding to the time in question.

#### **Textual Amendments**

**F1** Ss. 286A, 286B inserted (6.4.2011) (with effect in accordance with Sch. 2 paras. 7(3), 8 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 2 para. 2\(8\)](#); S.I. 2011/662, art. 2

#### **286B The financial health requirement**

- (1) The requirement of this section is that the relevant company is not, at the time of the issue of the relevant holding, in difficulty.
- (2) The relevant company is “in difficulty” if it is reasonable to assume that it would be regarded as a firm in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02).]

*Status: Point in time view as at 19/07/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: The requirements. (See end of Document for details)*

### Textual Amendments

**F1** Ss. 286A, 286B inserted (6.4.2011) (with effect in accordance with Sch. 2 paras. 7(3), 8 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 2 para. 2\(8\)](#); S.I. 2011/662, art. 2

## 287 The maximum qualifying investment requirement

(1) The requirement of this section is that <sup>F2</sup>, if the condition in subsection (1A) is met,] the relevant holding did not, when it was issued, represent an investment in excess of the maximum qualifying investment for the relevant period.

<sup>F3</sup>(1A) The condition is that—

- (a) at the time of the issue of the relevant holding the relevant company or any of its qualifying subsidiaries was a member of a partnership or a party to a joint venture,
- (b) the trade which meets the requirement of section 291 was at that time being carried on, or to be carried on, by those partners in partnership or by the parties to the joint venture, and
- (c) the other partners or parties to the joint venture include at least one other company.]

(2) <sup>F4</sup>[The] maximum qualifying investment for any period is exceeded so far as the total amount of money which—

- (a) is raised in that period, and
- (b) is so raised by the issue to the investing company during that period of shares in or securities of the relevant company,

exceeds <sup>F5</sup>[the relevant fraction of] £1 million.

<sup>F6</sup>(2A) The relevant fraction is—

1 N

where “N” is the number of companies (including the relevant company) which, at the time when the relevant holding was issued were members of the partnership or, as the case may be, parties to the joint venture.]

(3) If the relevant holding represented, when issued, an investment in excess of the maximum qualifying investment for the relevant period—

- (a) the shares or securities which represented the excess are not to be regarded as part of the relevant holding, and
- (b) the amount of money raised by those shares or securities is to be ignored for the purposes of any subsequent application of subsection (2).

(4) For the purposes of this section, if there is any question as to whether any shares in or securities of the relevant company which are for the time being held by the investing company represent an investment in excess of the maximum qualifying investment for any period, that question is determined on the following assumption in relation to disposals by the investing company.

(5) The assumption is that, as between shares or securities of the same description, those which represent the whole or any part of the excess are disposed of before those which do not.

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<sup>F7</sup>(6) .....

<sup>F8</sup>(7) .....

(8) For the purposes of this section “the relevant period” is the period beginning with whichever is the earlier of—

- (a) the time 6 months before the issue of the relevant holding, and
- (b) the beginning of the tax year in which the issue of that holding took place, and (in either case) ending with the issue of that holding.

#### Textual Amendments

- F2** Words in s. 287(1) inserted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 para. 5\(2\)](#)
- F3** S. 287(1A) inserted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 para. 5\(3\)](#)
- F4** Word in s. 287(2) substituted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 para. 5\(4\)\(a\)](#)
- F5** Words in s. 287(2) inserted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 para. 5\(4\)\(b\)](#)
- F6** S. 287(2A) inserted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 para. 5\(5\)](#)
- F7** S. 287(6) omitted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 8 para. 5\(6\)](#)
- F8** S. 287(7) omitted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 8 para. 5\(6\)](#)

## 288 The no guaranteed loan requirement

- (1) The requirement of this section is that there are no securities relating to a guaranteed loan in the relevant holding.
- (2) For the purposes of this section, a security relates to a guaranteed loan if (and only if) there are arrangements for the investing company to be or to become entitled to receive anything (whether directly or indirectly) from a third party in the event of the failure by any person to comply with—
  - (a) the terms of the loan to which the security relates, or
  - (b) the terms of the security.
- (3) For the purposes of subsection (2) it does not matter whether the arrangements apply in all cases of a failure to comply or only in some such cases.
- (4) For the purposes of this section “third party” means any person except—
  - (a) the relevant company, and
  - (b) if the relevant company is a parent company that meets the trading requirement in section 290(1)(b), the subsidiaries of that company.

*Status: Point in time view as at 19/07/2012.*

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## 289 The proportion of eligible shares requirement

- (1) The requirement of this section is that eligible shares represent at least 10% by value of the totality of the shares in or securities of the relevant company (including the relevant holding) which are held by the investing company.
- (2) For the purposes of this section the value at any time of any shares in or securities of a company is taken (subject to subsection (4)) to be their value immediately after—
  - (a) any relevant event occurring at that time, or
  - (b) if no relevant event occurs at that time, the last relevant event to occur before that time.
- (3) In subsection (2) “the relevant event”, in relation to any shares in or securities of the relevant company, means—
  - (a) the acquisition by the investing company of those shares or securities,
  - (b) the acquisition by the investing company of any other shares in or securities of the relevant company which—
    - (i) are of the same description as those shares or securities, and
    - (ii) are acquired by the investing company otherwise than by being allotted to the investing company without its being liable to give any consideration, or
  - (c) the making of any such payment in discharge, in whole or in part, of any obligation attached to any shares in or securities of the relevant company held by the investing company as (by discharging that obligation) increases the value of any such shares or securities.
- (4) If at any time the value of any shares or securities held by the investing company is less than the consideration given by the investing company for those shares or securities, it is to be assumed for the purposes of this section that the value of the shares or securities at that time is equal to the amount of that consideration.
- (5) In this section “eligible shares” has the same meaning as in Chapter 3 (see section [F<sup>9</sup>285(3A) and (3B)]).

### Textual Amendments

- F9** Words in s. 289(5) substituted (6.4.2011) (with effect in accordance with Sch. 2 paras. 7(4), 8 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 2 para. 2\(9\)](#); S.I. 2011/662, [art. 2](#)

## 290 The trading requirement

- (1) The requirement of this section is that—
  - (a) the relevant company, ignoring any incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, or
  - (b) the relevant company is a parent company and the business of the group does not consist wholly or as to a substantial part in the carrying on of non-qualifying activities.
- (2) If the relevant company intends that one or more other companies should become its qualifying subsidiaries with a view to their carrying on one or more qualifying trades—
  - (a) the relevant company is treated as a parent company for the purposes of subsection (1)(b), and

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- (b) the reference in subsection (1)(b) to the group includes the relevant company and any existing or future company that will be its qualifying subsidiary after the intention in question is carried into effect.

This subsection does not apply at any time after the abandonment of that intention.

- (3) For the purposes of subsection (1)(b) the business of the group means what would be the business of the group if the activities of the group companies taken together were regarded as one business.
- (4) For the purpose of determining the business of a group, activities are ignored so far as they are carried on by a mainly trading subsidiary otherwise than for its main purpose.
- (5) For the purpose of determining the business of a group, activities of a group company are ignored so far as they consist in—
  - (a) the holding of shares in or securities of a qualifying subsidiary of the parent company,
  - (b) the making of loans to another group company, or
  - (c) the holding and managing of property used by a group company for the purpose of one or more qualifying trades carried on by a group company, or
  - (d) the holding and managing of property used by a group company for the purpose of research and development from which it is intended—
    - (i) that a qualifying trade to be carried on by a group company will be derived, or
    - (ii) that a qualifying trade carried on or to be carried on by a group company will benefit.
- (6) Any reference in sub-paragraph (i) or (ii) of subsection (5)(d) to a group company includes a reference to any existing or future company which will be a group company at any future time.
- (7) In this section—
  - “incidental purposes” means purposes having no significant effect (other than in relation to incidental matters) on the extent of the activities of the company in question,
  - “mainly trading subsidiary” means a qualifying subsidiary which, apart from incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, and any reference to the main purpose of such a subsidiary is to be read accordingly,
  - “non-qualifying activities” means—
    - (a) excluded activities, and
    - (b) activities carried on otherwise than in the course of a trade.
- (8) This section is supplemented by section 300 (meaning of “qualifying trade”) and sections 303 to 310 (excluded activities).

## **291 The carrying on of a qualifying activity requirement**

- (1) The requirement of this section, at any time on or after the issue of the relevant holding, is that a qualifying company (whether or not the same such company at every such time) must have been carrying on a qualifying activity at all times from the issue of the holding to the time in question.

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- (2) [<sup>F10</sup>Carrying on a qualifying trade] is a qualifying activity.
- (3) Preparing to carry on a qualifying trade is a qualifying activity if, at the time when the relevant holding was issued, the trade was intended to be carried on <sup>F11</sup>... by a qualifying company.

This is subject to subsections (4) and (5).

- (4) The requirement of this section is not capable of being met by virtue of subsection (3) at any time after the end of the period of two years beginning with the issue of the relevant holding unless—
- (a) the intended trade was begun to be carried on by a qualifying company before the end of that period, and
  - (b) at all times since the end of that period, a qualifying company (whether or not the same such company at every such time) has been carrying on a qualifying trade <sup>F12</sup>....
- (5) The requirement of this section is also not capable of being met by virtue of subsection (3) at any time after the abandonment, within the period mentioned in subsection (4), of the intention in question.
- (6) In determining for the purposes of subsection (4)(a) when the intended trade was begun to be carried on by a qualifying company which is a qualifying 90% subsidiary of the relevant company, any carrying on by it of the trade before it became such a subsidiary of the relevant company is ignored.
- (7) In this section “qualifying company” means the relevant company or any qualifying 90% subsidiary of that company.
- (8) The reference in subsection (7) to a qualifying company which is a qualifying 90% subsidiary of the relevant company includes, in its application to subsection (3), a reference to any existing or future qualifying company which will be a qualifying 90% subsidiary of the relevant company at any future time.

#### Textual Amendments

- F10** Words in s. 291(2) substituted (6.4.2011) (with effect in accordance with Sch. 2 paras. 7(3), 8 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 2 para. 2\(10\)\(a\)](#); S.I. 2011/662, [art. 2](#)
- F11** Words in s. 291(3) omitted (6.4.2011) (with effect in accordance with Sch. 2 paras. 7(3), 8 of the amending Act) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 2 para. 2\(10\)\(b\)](#); S.I. 2011/662, [art. 2](#)
- F12** Words in s. 291(4)(b) omitted (6.4.2011) (with effect in accordance with Sch. 2 paras. 7(3), 8 of the amending Act) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 2 para. 2\(10\)\(c\)](#); S.I. 2011/662, [art. 2](#)

## 292 Ceasing to meet requirements because of administration or receivership

- (1) A company is not regarded as ceasing to meet the requirement of section 290 or 291 merely because of anything done in consequence of its being in administration or receivership.
- (2) Subsection (1) applies only if—
- (a) the entry into administration or receivership, and

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- (b) everything done as a consequence of the company being in administration or receivership,  
is for genuine 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.

### **[<sup>F13</sup>292A The maximum amount raised annually through risk capital schemes requirement**

- (1) The total amount of relevant investments made in the relevant company in the year ending with the date the relevant holding is issued must not exceed [<sup>F14</sup>£5 million].
- (2) In subsection (1), the reference to relevant investments made in the relevant company includes relevant investments made in any company that is, or has at any time in the year mentioned there been, a subsidiary of the relevant company (whether or not it was such a subsidiary when the investment was made).
- (3) A “relevant investment” is made in a company if—
- (a) an investment (of any kind) in the company is made by a VCT, or
  - (b) the company issues shares (money having been subscribed for them), and (at any time) the company provides—
    - (i) a compliance statement under section 205 (enterprise investment scheme), or
    - [ a compliance statement under section 257ED (seed enterprise <sup>F15</sup>(ia) investment scheme).]
    - <sup>F16</sup>(ii) .....  
in respect of the shares<sup>F17</sup>, or
  - (c) any other investment is made in the company which is aid received by it pursuant to a measure approved by the European Commission as compatible with Article 107 of the Treaty on the Functioning of the European Union in accordance with the principles laid down in the Community Guidelines on Risk Capital Investments in Small and Medium-sized Enterprises (as those guidelines may be amended or replaced from time to time).]
- (4) For the purposes of subsections (1) and (2), an investment within subsection (3)(b) is regarded as made when the shares are issued.
- (5) Subsection (6) applies if, by virtue of the provision of a compliance statement under section 205 above <sup>F18</sup>..., the requirement of this section is not met.
- (6) The requirement is to be treated as having been met throughout the period—
- (a) beginning with the time the relevant holding was issued, and
  - (b) ending with the time the compliance statement was provided.]

#### **Textual Amendments**

**F13** S. 292A inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 para. 6\(3\)](#) (with [Sch. 16 paras. 6\(5\)\(6\), 8](#))

**F14** Words in s. 292A(1) substituted (19.7.2012) (with effect in accordance with [Sch. 8 para. 20\(2\)](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 paras. 6\(2\), 20\(2\)](#); [S.I. 2012/1901](#), art. 2(a); [S.I. 2012/1901](#), art. 2(a)

**F15** S. 292A(3)(b)(ia) inserted (17.7.2012) (with effect in accordance with [Sch. 6 para. 24\(1\)\(2\)](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 16](#)

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- F16** S. 292A(3)(b)(ii) omitted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 8 para. 6(3)(a)**
- F17** S. 292A(3)(c) and preceding word inserted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 8 para. 6(3)(b)**
- F18** Words in s. 292A(5) omitted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 8 para. 6(4)**

### **[<sup>F19</sup>292B The spending of money raised by SEIS investment requirement**

- (1) The requirement of this section is that, if an SEIS investment has been made in the relevant company, at least 70% of the money raised by the investment has been spent as mentioned in section 257CC (seed enterprise investment scheme: the spending of the money raised requirement) before the issue of the relevant holding.
- (2) An “SEIS investment” is made in a company if the company issues shares (money having been subscribed for them), and (at any time) the company provides a compliance statement under section 257ED (seed enterprise investment scheme).]

#### **Textual Amendments**

- F19** S. 292B inserted (17.7.2012) (with effect in accordance with Sch. 6 para. 24(1)(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 6 para. 17**

### **293 The use of the money raised requirement**

- [<sup>F20</sup>(1)** The requirement of this section is that—
- (a) less than two years has passed since the trading time, or
  - (b) at least two years has passed since the trading time and all of the money raised by the issue of the relevant holding has been employed wholly for the purposes of a relevant qualifying activity.]

**<sup>F21</sup>(2)** .....

**<sup>F21</sup>(3)** .....

**<sup>F21</sup>(4)** .....

- (5) In subsection (1) “the trading time” means whichever is applicable of the following—
  - (a) in a case where the requirement of section 291 was met in relation to the time when the relevant holding was issued and the relevant qualifying activity falls within subsection (2) of that section, the time when the relevant holding was issued, and
  - (b) in a case where that requirement was met in relation to that time and the relevant qualifying activity falls within subsection (3) of that section, the time when the condition in subsection (4)(a) of that section was met by a qualifying company beginning to carry on the intended trade.

**[<sup>F22</sup>(5A)** Employing money on the acquisition of shares in a company does not of itself amount to employing the money for the purposes of a relevant qualifying activity.]

- (6) For the purposes of this section money is not to be treated as employed otherwise than wholly for the purposes of a relevant qualifying activity if the only amount employed for other purposes is an amount which is not a significant amount.



*Status: Point in time view as at 19/07/2012.*

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- (7) Nothing in section 286(5) requires any money whose use is ignored by virtue of subsection (6) to be treated as raised by a different holding.
- (8) In this section—
- “qualifying activity” and “qualifying company” have the same meaning as in section 291, and
  - a qualifying activity is a “relevant qualifying activity” if—
    - (a) it was also a qualifying activity at the time when the relevant holding was issued, or
    - (b) it is a qualifying trade and preparing to carry it on was a qualifying activity at that time.

#### Textual Amendments

- F20** S. 293(1) substituted (with effect in accordance with Sch. 8 para. 14 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 8 para. 9\(2\)](#)
- F21** S. 293(2)-(4) omitted (with effect in accordance with Sch. 8 para. 14 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 8 para. 9\(3\)](#)
- F22** S. 293(5A) inserted (6.4.2012) (retrospective and with effect in accordance with Sch. 8 para. 21(2)(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 paras. 7, 21\(1\)](#)

## 294 The relevant company to carry on the relevant qualifying activity requirement

- (1) The requirement of this section is met if, at no time after the issue of the relevant holding, has the relevant qualifying activity in question been carried on by a person other than—
- (a) the relevant company, or
  - (b) a qualifying 90% subsidiary of that company.

In this subsection “the relevant qualifying activity in question” means the relevant qualifying activity by reference to which the requirement of section 293 is met.

- (2) The requirement of this section is not to be regarded as failing to be met merely because of the carrying on of the trade in question by a person other than the relevant company, or a qualifying subsidiary of that company, at any time—
- (a) after the issue of the relevant holding, and
  - (b) before the relevant company, or any qualifying 90% subsidiary of that company, carries on that trade.
- (3) The requirement of this section is not to be regarded as failing to be met merely because of the carrying on of the trade in question—
- (a) by the partners in a partnership of which the relevant company, or a qualifying 90% subsidiary of that company, is a member, or
  - (b) by the parties to a joint venture to which the relevant company, or a qualifying 90% subsidiary of that company, is a party.
- (4) The requirement of this section is not to be regarded as failing to be met if—
- (a) merely because of anything done as a consequence of the relevant company or any other company being in administration or receivership, or
  - (b) merely because of the relevant company or any other company being wound up or dissolved without winding up,

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the trade in question ceases to be carried on by the relevant company or a qualifying 90% subsidiary of that company and is subsequently carried on by a person who has not been connected, at any time after the date which is 12 months before the issue of the relevant holding, with the relevant company.

- (5) Subsection (4) applies only if—
- (a) the entry into administration or receivership and everything done in consequence of the company concerned being in administration or receivership, or
  - (b) the winding up or dissolution,
- is for genuine commercial reasons and is not part of a scheme or arrangement the purpose or one of the main purposes of which is the avoidance of tax.
- (6) In this section “the trade in question” means so much of the relevant qualifying activity mentioned in subsection (1) as consists of—
- (a) a trade which was being carried on at the time when the relevant holding was issued, or
  - (b) a trade for the carrying on of which preparations were being made at that time.
- (7) The definition of “relevant qualifying activity” in subsection (8) of section 293 applies for the purposes of this section as it applies for the purposes of that section.

## **295 The unquoted status requirement**

- (1) The requirement of this section is that the relevant company must be an unquoted company.
- (2) In this section “unquoted company” means a company none of whose shares, stocks, debentures or other securities are marketed to the general public.
- (3) For the purposes of subsection (2), shares, stocks, debentures or other securities are marketed to the general public if they are—
- (a) listed on [<sup>F23</sup>a recognised stock exchange, ]
  - (b) listed on a designated exchange in a country outside the United Kingdom, or
  - (c) dealt in <sup>F24</sup>... outside the United Kingdom by such means as may be designated.
- (4) In subsection (3)(b) and (c) “designated” means designated by an order made by the Commissioners for Her Majesty’s Revenue and Customs for the purposes of that provision.
- (5) An order made for the purposes of subsection (3)(b) may designate an exchange by name, or by reference to any class or description of exchanges, including a class or description framed by reference to any authority or approval given in a country outside the United Kingdom.
- (6) If—
- (a) any shares in or securities of a company are included in the qualifying holdings of the investing company, and
  - (b) that company ceases to be an unquoted company at any time while the investing company is approved as a VCT,

the requirements of this section are to be treated, in relation to shares or securities acquired before that time, as continuing to be met for a period of 5 years after that time.

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#### Textual Amendments

- F23** Words in s. 295(3)(a) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 26 para. 12\(7\)\(a\)](#)
- F24** Words in s. 295(3)(c) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 26 para. 12\(7\)\(b\)](#), [Sch. 27 Pt. 6\(5\)](#)

### 296 The control and independence requirement

- (1) The control element of the requirement is that—
- (a) the relevant company must not control (whether on its own or together with any person connected with it) any company which is not a qualifying subsidiary of the relevant company, and
  - (b) no arrangements must be in existence by virtue of which the relevant company could fail to meet paragraph (a).
- (2) The independence element of the requirement is that—
- (a) the relevant company must not be under the control of another company (or of another company and any other person connected with that other company), and
  - (b) no arrangements must be in existence by virtue of which the relevant company could fail to meet paragraph (a).
- (3) This section is subject to section 327(7) (exchange of shares).

### 297 The gross assets requirement

- (1) The requirement of this section in the case of a relevant company that is a single company is that the value of the company's gross assets—
- (a) did not exceed [<sup>F25</sup>£15 million] immediately before the issue of the relevant holding, and
  - (b) did not exceed [<sup>F26</sup>£16 million] immediately afterwards.
- (2) The requirement of this section in the case of a relevant company that is a parent company is that the value of the group assets—
- (a) did not exceed [<sup>F27</sup>£15 million] immediately before the issue of the relevant holding, and
  - (b) did not exceed [<sup>F28</sup>£16 million] immediately afterwards.
- (3) The value of the group assets means the sum of the values of the gross assets of each of the members of the group, ignoring any that consist in rights against, or shares in or securities of, another member of the group.

#### Textual Amendments

- F25** Words in s. 297(1)(a) substituted (19.7.2012) (with effect in accordance with Sch. 8 para. 20(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 paras. 8\(a\), 20\(2\)](#); [S.I. 2012/1901](#), [art. 2\(b\)](#)
- F26** Words in s. 297(1)(b) substituted (19.7.2012) (with effect in accordance with Sch. 8 para. 20(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 paras. 8\(b\), 20\(2\)](#); [S.I. 2012/1901](#), [art. 2\(b\)](#)
- F27** Words in s. 297(2)(a) substituted (19.7.2012) (with effect in accordance with Sch. 8 para. 20(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 paras. 8\(a\), 20\(2\)](#); [S.I. 2012/1901](#), [art. 2\(b\)](#)

*Status: Point in time view as at 19/07/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: The requirements. (See end of Document for details)*

**F28** Words in s. 297(2)(b) substituted (19.7.2012) (with effect in accordance with Sch. 8 para. 20(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 paras. 8\(b\), 20\(2\)](#); S.I. 2012/1901, art. 2(b)

### **[<sup>F29</sup>297A The number of employees requirement**

- (1) If the relevant company is a single company, the full-time equivalent employee number for it must be less than [<sup>F30</sup>250] when the relevant holding is issued.
- (2) If the relevant company is a parent company, the sum of—
  - (a) the full-time equivalent employee number for it, and
  - (b) the full-time equivalent employee numbers for each of its qualifying subsidiaries,
 must be less than [<sup>F31</sup>250] when the relevant holding is issued.

- (3) The full-time equivalent employee number for a company is calculated as follows—

*Step 1*

Find the number of full-time employees of the company.

*Step 2*

Add, for each employee of the company who is not a full-time employee, such fraction as is just and reasonable.

The result is the full-time equivalent employee number.

- (4) In this section references to an employee—
  - (a) include a director, but
  - (b) do not include—
    - (i) an employee on maternity or paternity leave, or
    - (ii) a student on vocational training.]

#### **Textual Amendments**

- F29** S. 297A inserted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 para. 3\(3\)\(5\)](#) (with [Sch. 16 para. 3\(6\), \(7\)](#))
- F30** Word in s. 297A(1) substituted (19.7.2012) (with effect in accordance with Sch. 8 para. 20(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 paras. 9, 20\(2\)](#); S.I. 2012/1901, art. 2(c)
- F31** Word in s. 297A(2) substituted (19.7.2012) (with effect in accordance with Sch. 8 para. 20(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 paras. 9, 20\(2\)](#); S.I. 2012/1901, art. 2(c)

### **298 The qualifying subsidiaries requirement**

Any subsidiary that the relevant company has must be a qualifying subsidiary of the company.

### **299 The property managing subsidiaries requirement**

- (1) Any property managing subsidiary that the relevant company has must be a qualifying 90% subsidiary of the company.

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- (2) “Property managing subsidiary” means a subsidiary of the relevant company whose business consists wholly or mainly in the holding or managing of land or any property deriving its value from land.
- (3) In subsection (2) references to property deriving its value from land include—
  - (a) any shareholding in a company deriving its value directly or indirectly from land,
  - (b) any partnership interest deriving its value directly or indirectly from land,
  - (c) any interest in settled property deriving its value directly or indirectly from land, and
  - (d) any option, consent or embargo affecting the disposition of land.

### [<sup>F32</sup>299A The no disqualifying arrangements requirement

- (1) The relevant holding must not have been issued, nor any money raised by the issue employed, in consequence or anticipation of, or otherwise in connection with, disqualifying arrangements.
- (2) Arrangements are “disqualifying arrangements” if—
  - (a) the main purpose, or one of the main purposes, of the arrangements is to secure—
    - (i) that a qualifying activity is or will be carried on by the relevant company or a qualifying 90% subsidiary of that company, and
    - (ii) that shares or securities issued by the relevant company may be comprised in any company's qualifying holdings or that one or more persons may obtain relevant tax relief in respect of such shares which raise money for the purposes of that qualifying activity,
  - (b) that qualifying activity is the relevant qualifying activity by reference to which the requirement in section 293(1)(b) (money raised to be employed within two years for relevant qualifying activity) is met in relation to the relevant holding, and
  - (c) one or both of conditions A and B are met.
- (3) Condition A is that, as a (direct or indirect) result of the money raised by the issue of the relevant holding being employed as required by section 293(1)(b), an amount representing the whole or the majority of the amount raised is, in the course of the arrangements, paid to or for the benefit of a relevant person or relevant persons.
- (4) Condition B is that, in the absence of the arrangements, it would have been reasonable to expect that the whole or greater part of the component activities of the relevant qualifying activity would have been carried on as part of another business by a relevant person or relevant persons.
- (5) For the purposes of this section it is immaterial whether the relevant company is a party to the arrangements.
- (6) In this section—

“component activities” means—

  - (a) if the relevant qualifying activity is within section 291(2), the carrying on of a qualifying trade which constitutes that activity, and
  - (b) if the relevant qualifying activity is within section 291(3), the preparations to carry on a qualifying trade which constitute that activity;

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“arrangements” includes any scheme, agreement, understanding, transaction or series of transactions (whether or not legally enforceable);

“relevant person” means a person who is a party to the arrangements or a person connected with such a party;

“qualifying activity” has the same meaning as in section 291;

“relevant tax relief”, in respect of shares, means one or more of the following—

- (a) relief under Chapter 6 of Part 4 (losses on disposal of shares) in respect of the shares;
- (b) EIS relief (within the meaning of Part 5) in respect of the shares;
- (c) SEIS relief (within the meaning of Part 5A) in respect of the shares;
- (d) relief under section 150A or 150E of TCGA 1992 (enterprise investment scheme and seed enterprise investment scheme) in respect of the shares;
- (e) relief under Schedule 5B to that Act in consequence of which deferral relief is attributable to the shares;
- (f) relief under Schedule 5BB to that Act (seed enterprise investment scheme: re-investment) in consequence of which SEIS re-investment relief is attributable to the shares (see paragraph 4 of that Schedule).]

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#### **Textual Amendments**

**F32** S. 299A inserted (17.7.2012) (with effect in accordance with Sch. 8 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 8 para. 10](#)

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**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading:  
The requirements.