



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 7

#### COMMUNITY INVESTMENT TAX RELIEF

##### **Modifications etc. (not altering text)**

- C1** Pt. 7 modified by 2005 c. 7, s. 54A (as inserted (10.7.2008) by [The Alternative Finance Arrangements \(Community Investment Tax Relief\) Order 2008 \(S.I. 2008/1821\)](#), arts. 1, 2)

### CHAPTER 1

#### INTRODUCTION

##### *CITR*

#### **333 Meaning of “CITR”**

This Part provides for community investment tax relief (“CITR”), that is, entitlement to tax reductions in respect of amounts invested by individuals in community development finance institutions.

#### **334 Eligibility for CITR**

- (1) An individual (“the investor”) who makes an investment (“the investment”) in a body is eligible for CITR in respect of the investment if—
- that body is accredited as a community development finance institution under Chapter 2 at the time the investment is made,
  - the investment is a qualifying investment (see Chapter 3), and
  - the general conditions of Chapter 4 are met.

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(2) In this Part references to “the CDFI” are to the body in which the investment is made.

### **335 Form and amount of CITR**

- (1) If the investor is eligible for CITR in respect of the investment, the investor may make a claim in respect of the investment for any one or more of the relevant tax years.
- (2) If the investor makes a claim for a relevant tax year, the investor is entitled to a tax reduction for that year of 5% of the invested amount in respect of the investment for the year.
- (3) For this purpose the “relevant” tax years are—
  - (a) the tax year in which the investment date falls, and
  - (b) each of the 4 subsequent tax years.
- (4) The tax reduction is given effect at Step 6 of the calculation in section 23.
- (5) The investor is entitled to make a claim for CITR for a relevant tax year if—
  - (a) the investor considers that the conditions for the CITR are for the time being met, and
  - (b) the investor has received a tax relief certificate (see section 348) relating to the investment from the CDFI,
 but no claim may be made before the end of the tax year to which it relates.
- (6) Subsection (5) is subject to the following provisions—
  - (a) section 354 (loans: no claim after disposal or excessive repayments or receipts of value),
  - (b) section 355 (securities or shares: no claim after disposal or excessive receipts of value), and
  - (c) section 356 (no claim after loss of accreditation by CDFI).

### *Miscellaneous*

### **336 Meaning of “making an investment”**

- (1) For the purposes of this Part, an individual makes an investment in a body at any time when—
  - (a) the individual makes a loan (whether secured or unsecured) to the body, or
  - (b) an issue of securities of or shares in the body, for which the individual has subscribed, is made to the individual.
- (2) The following provisions of this section apply for the purposes of subsection (1)(a).
- (3) An individual does not make a loan to a body if—
  - (a) the body uses overdraft facilities provided by the individual, or
  - (b) the individual subscribes for or otherwise acquires securities of the body.
- (4) If the loan agreement authorises the body to draw down amounts of the loan over a period of time, the loan is treated as made at the time when the first amount is drawn down.

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### **337 Determination of “the invested amount”**

- (1) This section applies for the purpose of determining “the invested amount” in respect of any loan, securities or shares included in the investment.

This is subject to sections 363(2) and 369 (which adjust “the invested amount” in certain cases where value is received).

- (2) In the case of a loan, the invested amount is—
- (a) for the tax year in which the investment date falls, the average capital balance for the first year of the 5 year period,
  - (b) for the next tax year, the average capital balance for the second year of the 5 year period, and
  - (c) for any subsequent tax year—
    - (i) the average capital balance for the period of 12 months beginning with the anniversary of the investment date falling in the tax year concerned, or
    - (ii) if less, the average capital balance for the period of 6 months beginning 18 months after the investment date.
- (3) In the case of securities or shares, the invested amount for a tax year is the amount subscribed by the investor for the securities or shares.
- (4) For the purposes of this section, the average capital balance of the loan for a period is the mean of the daily balances of capital outstanding during the period.

### **338 Meaning of “the 5 year period” and “the investment date”**

In this Part—

“the 5 year period” means the period of 5 years beginning with the investment date, and

“the investment date” means the day the investment is made.

### **339 Overview of other Chapters of Part**

In this Part—

- (a) Chapter 5 provides for the making of claims for CITR and the attribution of CITR to investments,
- (b) Chapter 6 provides for CITR to be withdrawn or reduced in the circumstances mentioned in that Chapter, and
- (c) Chapter 7 contains supplementary and general provision.

## **CHAPTER 2**

### **ACCREDITED COMMUNITY DEVELOPMENT FINANCE INSTITUTIONS**

### **340 Application and criteria for accreditation**

- (1) Applications for accreditation as a community development finance institution must be made to the Secretary of State in the form and manner specified by the Secretary of State.

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- (2) The Secretary of State is to accredit a body if (and only if) the Secretary of State is satisfied—
- (a) that the body's principal objective is to provide (directly or indirectly)—
    - (i) finance, or
    - (ii) finance and access to business advice, for enterprises for disadvantaged communities, and
  - (b) that the body meets any other criteria specified in regulations made by the Treasury.
- (3) For the purposes of this section “enterprises for disadvantaged communities” include—
- (a) enterprises located in disadvantaged areas, and
  - (b) enterprises owned or operated by, or designed to serve, members of disadvantaged groups.
- (4) The criteria mentioned in paragraph (b) of subsection (2) may include criteria relating to the enterprises to which the body provides or proposes to provide finance or access to business advice.
- (5) Regulations under that paragraph may make the provision authorised by that paragraph by reference to any material published by, or on behalf of, the Secretary of State (whether before or after the coming into force of this section).
- [<sup>F1</sup>(5A) Regulations under that paragraph may include provision for the purposes of Part 7 of CTA 2010 in addition to provision made for the purposes of this Part.]
- (6) Regulations under that paragraph—
- (a) may make different provision for different cases or circumstances or in relation to different areas, and
  - (b) may, in particular, make different provision in the case of bodies whose principal objective in providing finance as mentioned in subsection (2)(a) is to invest directly in enterprises that meet the conditions of subsection (7).
- (7) An enterprise meets the conditions of this subsection if it uses the money invested in it for the purposes of its business and either—
- (a) that business does not include the provision of finance for other enterprises, or
  - (b) if it does, the nature and extent of such provision meets any conditions prescribed by regulations made by the Treasury.
- (8) If the Secretary of State accredits a body of a kind mentioned in subsection (6)(b), the Secretary of State must specify in the accreditation that the body is accredited as a retail community development finance institution.

#### **Textual Amendments**

- F1** S. 340(5A) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 508](#) (with [Sch. 2](#))

### **341 Terms and conditions of accreditation**

- (1) An accreditation under this Chapter must—

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- (a) be made on—
    - (i) any terms required by regulations, and
    - (ii) any other terms the Secretary of State considers appropriate, and
  - (b) be made conditional on compliance with—
    - (i) any requirements imposed by regulations, and
    - (ii) any other requirements the Secretary of State considers appropriate.
- (2) The requirements that may be imposed by virtue of subsection (1)(b) include requirements relating to the provision of information.
- (3) Regulations may—
- (a) make provision for appeals to the <sup>[F<sup>2</sup>tribunal]</sup> against refusals to grant accreditation under this Chapter,
  - (b) make provision about the consequences of a failure to comply with any requirement of an accreditation, including—
    - (i) provision for the withdrawal of the accreditation with effect from the time of the failure or a later time, and
    - (ii) provision for the imposition of penalties,
  - (c) make provision for the making of decisions by the Secretary of State as to any matter required to be decided for the purposes of the regulations,
  - (d) make different provision for different cases or circumstances or in relation to different areas, and
  - (e) contain incidental, supplemental, consequential and transitional provision and savings.
- <sup>[F<sup>3</sup>(3A)]</sup> Regulations under this section may include provision for the purposes of Part 7 of CTA 2010 in addition to provision made for the purposes of this Part.]
- (4) In this section “regulations” means regulations made by the Treasury.

#### Textual Amendments

- F2** Word in s. 341(3)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 451](#)
- F3** S. 341(3A) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 509](#) (with [Sch. 2](#))

## 342 Period of accreditation

- (1) An accreditation has effect for a period (an “accreditation period”) of 3 years beginning on the day specified in the accreditation.
- (2) Subject to subsection (4), the accreditation must not specify a day which is earlier than—
  - (a) if the body is not accredited under this Chapter at the time the application is made, the day the accreditation is granted, and
  - (b) if the body is so accredited, the time the body's current accreditation expires.
- (3) Subsection (4) applies if—
  - (a) the body is accredited at the time the application is made, and
  - (b) it makes a request under this subsection.

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- (4) The new accreditation may specify that the existing accreditation is to be treated for the purposes of this Part (including subsection (2)(b)) as expiring immediately before the grant of the new accreditation (if it would otherwise expire at a later time).
- (5) This section has effect subject to section 341(3)(b) (power to provide for the withdrawal of accreditation).

### **343 Delegation of Secretary of State's functions**

The Secretary of State may delegate any functions conferred on the Secretary of State by or under this Chapter.

## **CHAPTER 3**

### QUALIFYING INVESTMENTS

### **344 Qualifying investments: introduction**

For the purposes of this Part the investment is a “qualifying investment” in the CDFI if—

- (a) the investment consists of—
  - (i) a loan in relation to which the conditions of section 345 are met,
  - (ii) securities in relation to which the conditions of section 346 are met, or
  - (iii) shares in relation to which the conditions of section 347 are met,
- (b) the investor receives from the CDFI a valid tax relief certificate in relation to the investment (see section 348), and
- (c) the requirements of section 349 (no pre-arranged protection against risks) are met.

### **345 Conditions to be met in relation to loans**

- (1) Condition A of this section is that either—
  - (a) the CDFI receives from the investor, on the investment date, the full amount of the loan, or
  - (b) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the end of that period is not later than 18 months after the investment date.
- (2) Condition B is that the loan must not carry any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within the 5 year period.
- (3) Condition C is that the loan must not have been made on terms that allow any person to require—
  - (a) the repayment during the first two years of the 5 year period of any of the loan capital advanced in those two years,
  - (b) the repayment during the third year of that period of more than 25% of the loan capital outstanding at the end of those two years,
  - (c) the repayment before the end of the fourth year of that period of more than 50% of that loan capital, or

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- (d) the repayment before the end of that period of more than 75% of that loan capital.
- (4) Subsection (3) does not apply if the CDFI is required to make the repayment as a result of its failure to meet any obligation of the loan agreement which—
  - (a) is imposed merely because of the commercial risks to which the investor is exposed as lender under that agreement, and
  - (b) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Part.
- (5) The Treasury may by order substitute any other percentage for any percentage for the time being specified in subsection (3).
- (6) Any such substitution is to have effect in relation to loans made by an individual on or after the date specified in the order.

### **346 Conditions to be met in relation to securities**

- (1) Condition A of this section is that the securities must be—
  - (a) subscribed for wholly in cash, and
  - (b) fully paid for on the investment date.
- (2) Condition B is that the securities must not carry—
  - (a) any present or future right to be redeemed within the 5 year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.
- (3) <sup>F4</sup>For the purposes of subsection (1)(b), securities are not fully paid for] if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the securities.

#### **Textual Amendments**

- F4** Words in s. 346(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 510](#) (with [Sch. 2](#))

### **347 Conditions to be met in relation to shares**

- (1) Condition A of this section is that the shares must be—
  - (a) subscribed for wholly in cash, and
  - (b) fully paid up on the investment date.
- (2) Condition B is that the shares must not carry—
  - (a) any present or future right to be redeemed during the 5 year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.
- (3) Shares are not fully paid up for the purposes of subsection (1)(b) if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the shares.

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### 348 Tax relief certificates

- (1) A “tax relief certificate” means a certificate issued by the CDFI in respect of the investment which is in the form specified by the Commissioners for Her Majesty’s Revenue and Customs.
- (2) The CDFI must not issue tax relief certificates under this section in respect of investments made in the CDFI in an accreditation period if the total value of—
  - (a) those investments, and
  - (b) any investments to which subsection (3) applies,
 will exceed the limit for that period.
- (3) This subsection applies to investments <sup>F5</sup>...—
  - (a) [<sup>F6</sup>which] have been made in the CDFI in the accreditation period, and
  - (b) in respect of which the CDFI has issued tax relief certificates under [<sup>F7</sup>section 229 of CTA 2010] (which makes in relation to corporation tax provision corresponding to that made by this section).
- (4) The limit for an accreditation period is—
  - (a) £10 million if the CDFI is accredited for the period as a retail community development finance institution (see section 340(8)), and
  - (b) £20 million in any other case.
- (5) For the purposes of subsection (2) the value of an investment made in the CDFI is—
  - (a) if the investment consists of a loan—
    - (i) the amount of the loan, or
    - (ii) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the amount committed under the loan agreement, and
  - (b) if the investment consists of securities or shares, the amount subscribed for them.
- (6) The Treasury may by order substitute any other amount for any amount for the time being specified in subsection (4).
- (7) Any such substitution is to have effect in relation to such accreditation periods as may be specified in the order; and those periods may, if the substitution increases [<sup>F8</sup>an amount] for the time being specified in subsection (4), include periods beginning before the order [<sup>F9</sup>comes into force].
- (8) Any tax relief certificate issued in contravention of subsection (2) is invalid.
- (9) A body is liable to a penalty of not more than £3,000 if it issues a tax relief certificate which is made fraudulently or negligently.

#### Textual Amendments

- F5** Word in s. 348(3) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 511\(2\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F6** Word in s. 348(3)(a) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 511\(2\)\(b\)](#) (with [Sch. 2](#))
- F7** Words in s. 348(3)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 511\(2\)\(c\)](#) (with [Sch. 2](#))



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- F8** Words in s. 348(7) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 511(3)(a) (with Sch. 2)
- F9** Words in s. 348(7) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 511(3)(b) (with Sch. 2)

### **349 No pre-arranged protection against risks**

- (1) Any arrangements—
- (a) under which the investment is made, or
  - (b) made, before the investor makes the investment, in relation to or in connection with the making of the investment,
- must not include excluded arrangements.
- (2) For the purposes of subsection (1) “excluded arrangements”—
- (a) means arrangements the main purpose or one of the main purposes of which is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for the investor against what would otherwise be the risks attached to making the investment, but
  - (b) does not include any arrangements which are confined to the provision for the investor of any protection against those risks which might reasonably be expected to be provided for commercial reasons if the investment were made in the course of a business of banking.
- (3) For the purposes of this section “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

## **CHAPTER 4**

### **GENERAL CONDITIONS**

### **350 No control of CDFI by investor**

- (1) The investor must not control the CDFI at any time during the 5 year period.
- (2) In this section references to the investor include any person connected with the investor.
- (3) If the CDFI is a body corporate, the question whether the investor controls the CDFI is, for the purposes of this section, determined in accordance with section 995.

This is subject to subsection (6).

- (4) In any other case the investor is treated, for those purposes, as having control of the CDFI if the investor has power to secure, as a result of—
- (a) the possession of voting power in the CDFI, or
  - (b) any powers conferred by the constitution of, or any other document regulating, the CDFI,

that the affairs of the body are conducted in accordance with the investor's wishes.

This is subject to subsections (5) and (6).

- (5) If—

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- (a) the CDFI is a partnership, and
- (b) the investor is a member of that partnership,

for the purposes of determining in accordance with this section whether the investor controls the CDFI, the other members of that partnership are not, as a result of their membership of the CDFI, treated as partners of the investor.

- (6) In determining whether the investor controls the CDFI there are attributed to the investor (so far as it would not otherwise be the case)—
  - (a) any rights or powers that the investor is entitled to acquire at a future date or will, at a future date, become entitled to acquire, and
  - (b) any rights or powers which another person holds on behalf of the investor or may be required to exercise, by direction, on the investor's behalf.

### **351 Investor must have beneficial ownership**

- (1) The investor must be the sole beneficial owner of the investment when it is made.
- (2) If the investment consists of a loan, the person beneficially entitled to repayment of the loan is treated as the beneficial owner of the loan for the purposes of this Part.

### **352 No acquisition of share in partnership**

- (1) If the CDFI is a partnership, the investment must not consist of or include any amount of capital contributed by the investor on becoming a member of the partnership.
- (2) For this purpose the amount of capital contributed by the investor on becoming a member of the partnership includes any amount which—
  - (a) purports to be provided by the investor by way of loan capital, and
  - (b) is accounted for as partners' capital in the accounts of the partnership.

### **353 No tax avoidance purpose**

The investment must not be made as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

## **CHAPTER 5**

### CLAIMS FOR AND ATTRIBUTION OF CITR

#### *Claims*

### **354 Loans: no claim after disposal or excessive repayments or receipts of value**

- (1) If the investment consists of a loan, no claim may be made in respect of a tax year if—
  - (a) the investor disposes of the whole or any part of the loan before the qualifying date relating to that year,
  - (b) at any time after the investment is made but before that qualifying date, the amount of the capital outstanding on the loan is reduced to nil, or
  - (c) before that qualifying date, paragraphs (a) and (b) of section 362(1) (repayments of loan in 5 year period exceeding permitted limits) apply in

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relation to the investment (whether by virtue of section 363 (receipts of value treated as repayments) or otherwise).

- (2) For the purposes of subsection (1)(a) any repayment of the loan is to be ignored.
- (3) For the purposes of this section the qualifying date relating to a tax year is the next anniversary of the investment date to occur after the end of that year.

### **355 Securities or shares: no claim after disposal or excessive receipts of value**

- (1) If the investment consists of securities or shares, a claim made in respect of a tax year must relate only to those securities or shares held by the investor, as sole beneficial owner, continuously throughout the period—
  - (a) beginning when the investment is made, and
  - (b) ending immediately before the qualifying date relating to the tax year.
- (2) No claim for CITR may be made in relation to a tax year if before the qualifying date relating to that year paragraphs (a) to (d) of section 364(1) (receipts of value in the <sup>[F10]</sup> year period exceeding permitted limits) apply in relation to the investment or any part of it.
- (3) For the purposes of this section the qualifying date relating to a tax year is the next anniversary of the investment date to occur after the end of that year.

#### **Textual Amendments**

**F10** Figure in s. 355(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 512** (with **Sch. 2**)

### **356 No claim after loss of accreditation by the CDFI**

- (1) If the CDFI ceases to be accredited under Chapter 2 with effect from a time<sup>F11</sup> ... within the 5 year period, no claim for CITR relating to the investment may be made by the investor—
  - (a) for the relevant tax year, or
  - (b) for any later tax year.
- <sup>[F12]</sup>(2) To find the relevant tax year proceed under the rest of this section, in which references to the time of accreditation ceasing are to the time with effect from which the CDFI ceases to be accredited.
- (3) If the time of accreditation ceasing falls within the first year of the 5 year period, the relevant tax year is the year in which the investment date fell.
- (4) In any other case the relevant tax year is—
  - (a) the year in which fell the last anniversary of the investment date before the time of accreditation ceasing, or
  - (b) if the time of accreditation ceasing itself falls on an anniversary of the investment date, the year in which that anniversary falls.]

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### **Textual Amendments**

- F11** Words in s. 356(1) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 513\(2\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F12** S. 356(2)-(4) substituted for s. 356(2) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 513\(3\)](#) (with [Sch. 2](#))

### *Attribution*

#### **357 Attribution: general**

- (1) In this Part references to the CITR attributable to any loan, securities or shares in respect of a tax year are read as references to the reduction which—
- (a) is made in the investor's liability to income tax for that year, and
  - (b) is attributed to that loan, or those securities or shares, in accordance with this section and section 358.

This is subject to the provisions of Chapter 6 for the withdrawal or reduction of CITR.

- (2) Subsections (3) and (4) apply if the investor's liability to income tax is reduced for a tax year under this Part.
- (3) If the reduction is obtained because of one loan, or securities or shares included in one issue, the amount of the tax reduction is attributed to that loan or those securities or shares.
- (4) If the reduction is obtained because of a loan or loans, securities or shares included in two or more investments, the reduction—
- (a) is apportioned between the loan or loans, securities or shares in each of those investments in the same proportions as the invested amounts in respect of the loan or loans, securities or shares for the year, and
  - (b) is attributed to that loan or those loans, securities or shares accordingly.
- (5) If under this section an amount of any reduction of income tax is attributed to any securities in the same issue, a proportionate part of that amount is attributed to each security.
- (6) If under this section an amount of any reduction of income tax is attributed to any shares in the same issue, a proportionate part of that amount is attributed to each of those shares.
- (7) If CITR attributable to a loan or any securities or shares falls to be withdrawn under Chapter 6, the CITR attributable to that loan or each of those securities or shares is reduced to nil.
- (8) If CITR attributable to any securities or shares falls to be reduced under that Chapter by any amount, the CITR attributable to each of those securities or shares is reduced by a proportionate part of that amount.

#### **358 Attribution: bonus shares**

- (1) This section applies if—

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- (a) corresponding bonus shares are issued to the investor in respect of any shares (“the original shares”) included in the investment, and
  - (b) the original shares have been continuously held by the investor, as sole beneficial owner, from the time they were issued until the issue of the bonus shares.
- (2) A proportionate part of any amount attributed to the original shares, in respect of a tax year, immediately before the bonus shares are issued is attributed to each of the shares in the holding consisting of the original shares and the bonus shares, in respect of that year.
- (3) After the issue of the bonus shares this Part applies as if—
- (a) the original issue had included the bonus shares, and
  - (b) the bonus shares had been held by the investor, as sole beneficial owner, continuously from the time the original shares were issued until the bonus shares were issued.
- (4) In this section—
- “corresponding bonus shares” means bonus shares that are in the same company, are of the same class, and carry the same rights as the original shares,
  - “original issue” means the issue of shares forming the investment.

## CHAPTER 6

### WITHDRAWAL OR REDUCTION OF CITR

#### *Introduction*

#### **359 Overview of Chapter**

- (1) This Chapter provides for CITR to be withdrawn or reduced under—
- (a) section 360 (disposal of loan during 5 year period),
  - (b) section 361 (disposal of securities or shares during 5 year period),
  - (c) section 362 (repayment of loan capital during 5 year period),
  - (d) section 363 (value received by investor during 6 year period: loans),
  - (e) section 364 (value received by investor during 6 year period: securities or shares),
  - (f) section 371 (CITR subsequently found not to have been due).
- (2) This Chapter also provides for the manner in which CITR is to be withdrawn or reduced (see section 372).
- (3) In this Chapter “the 6 year period” in relation to the investment is the period of 6 years beginning 12 months before the investment date.

#### *Disposals*

#### **360 Disposal of loan during 5 year period**

- (1) If the investment consists of a loan and within the 5 year period—

*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

- (a) the investor disposes of the whole of the investment, otherwise than by way of a permitted disposal, or
  - (b) the investor disposes of a part of the investment,
- any CITR attributable to the investment in respect of any tax year must be withdrawn.

(2) For the purposes of this section—

- (a) a disposal is “permitted” if—
  - (i) it is by way of a distribution in the course of dissolving or winding up the CDFI,
  - (ii) it is a disposal within section 24(1) of TCGA 1992 (entire loss, destruction, dissipation or extinction of asset),
  - (iii) it is a deemed disposal under section 24(2) of that Act (claim that value of asset has become negligible), or
  - (iv) it is made after the CDFI has ceased to be accredited under this Part, and
- (b) a full or partial repayment of the loan is not treated as giving rise to a disposal.

### **361 Disposal of securities or shares during 5 year period**

- (1) This section applies if the investment consists of securities or shares and—
  - (a) the investor disposes of the whole or any part of the investment (“the former investment”) within the 5 year period,
  - (b) the CDFI has not ceased to be accredited before the disposal, and
  - (c) the disposal does not arise as a result of an event within section 366(1)(a) (repayment, redemption or repurchase of securities or shares included in the investment).
- (2) If the disposal is not a qualifying disposal, any CITR attributable to the former investment in respect of any tax year must be withdrawn.
- (3) If the disposal is a qualifying disposal, any CITR attributable to the former investment [<sup>F13</sup>in respect of] a tax year must—
  - (a) if it is greater than A, be reduced by A, and
  - (b) in any other case, be withdrawn.

For this purpose “A” is an amount equal to 5% of the amount or value of the consideration (if any) which the investor receives for the former investment.

- (4) For the purposes of this section “qualifying disposal” means a disposal that is—
  - (a) by way of a bargain made at arm's length, or
  - (b) a permitted disposal (within the meaning of section 360).
- (5) If [<sup>F14</sup>in respect of] any tax year—
  - (a) the amount of CITR attributable to the former investment (“B”) is less than
  - (b) the amount (“C”) which is equal to 5% of the invested amount in respect of the former investment for that year,

subsection (3)(a) has effect in relation to that year as if the amount or value referred to in subsection (3) were reduced by multiplying it by the fraction—

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

# B C

- (6) If the amount of CITR attributable to the former investment in respect of a tax year has been reduced before the CITR is obtained, the amount referred to in subsection (5) as B is to be treated for the purposes of that subsection as the amount it would have been without that reduction.
- (7) Subsection (6) does not apply to a reduction by virtue of section 358 (attribution: bonus shares).

## Textual Amendments

- F13** Words in s. 361(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 514\(2\)](#) (with [Sch. 2](#))
- F14** Words in s. 361(5) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 514\(3\)](#) (with [Sch. 2](#))

## *Repayment of loans*

### **362 Repayment of loan capital during 5 year period**

- (1) If the investment consists of a loan and—
- the average capital balance of the loan for the third, fourth or final year of the 5 year period is less than the permitted balance for the year in question, and
  - the difference between those balances is not an amount of insignificant value,
- any CITR attributable to the investment in respect of any tax year must be withdrawn.
- (2) For the purposes of this section—
- “the average capital balance” of the loan for a period is the mean of the daily balances of capital outstanding during that period, ignoring any non-standard repayments of the loan made in that period or at any earlier time, and
- “the permitted balance” of the loan is—
- for the third year of the 5 year period, 75% of the average capital balance for the period of 6 months beginning 18 months after the investment date,
  - for the fourth year of that period, 50% of that balance, and
  - for the final year of that period, 25% of that balance.
- (3) For the purposes of subsection (2) a repayment of the loan is a non-standard repayment if subsection (4) or (5) applies.
- (4) This subsection applies if the repayment is made at the choice or discretion of the CDFI, and not as a direct or indirect consequence of any obligation provided for under the terms of the loan agreement.

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

- (5) This subsection applies if the repayment is made as a result of the failure of the CDFI to meet any obligation of the loan agreement which—
- (a) is imposed merely because of the commercial risks to which the investor is exposed as lender under that agreement, and
  - (b) is no more likely to be breached than any obligation that might reasonably have been agreed in respect of the loan in the absence of this Part.
- (6) For the purposes of this section “an amount of insignificant value” means an amount which—
- (a) is not more than £1,000, or
  - (b) if it is more than £1,000, is insignificant in relation to the average capital balance of the loan for the year of the 5 year period in question.

### *Receipts of value*

#### **363 Value received by investor during 6 year period: loans**

- (1) This section applies if the investment consists of a loan and the investor receives any value (other than an amount of insignificant value) from the CDFI during the 6 year period.
- (2) The investor is treated for the purposes of—
- (a) section 337 (determination of “invested amount”), and
  - (b) section 362 (repayments of loan capital),
- as having received a repayment of the loan of an amount equal to the amount of the value received.
- (3) For those purposes the repayment is treated as made—
- (a) if the value is received in the first or second year of the 6 year period, at the beginning of that second year, and
  - (b) if the value is received in a later year of that period, at the beginning of the year in question.
- (4) For the purposes of section 362 the repayment is treated as a repayment other than a non-standard repayment (within the meaning of that section).
- (5) For the purposes of this section “an amount of insignificant value” means an amount [<sup>F15</sup>of value] which—
- (a) is not more than £1,000, or
  - (b) if it is more than £1,000, is insignificant in relation to the average capital balance of the loan for the year of the 6 year period in which the value is received.
- (6) For the purposes of subsection (5)(b)—
- (a) “the average capital balance” of the loan for a year is the mean of the daily balances of capital outstanding during the year (ignoring the receipt of value in question), and
  - (b) any value received in the first year of the 6 year period is treated as received at the beginning of the second year of that period.
- (7) This section is subject to section 368 (value received if there is more than one investment).



*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

- (8) Value received is ignored, for the purposes of this section, so far as the CITR attributable to any loan, securities or shares in respect of any one or more tax years has already been reduced or withdrawn on its account.

#### Textual Amendments

- F15** Words in s. 363(5) inserted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 515** (with Sch. 2)

### 364 Value received by investor during 6 year period: securities or shares

- (1) This section applies if the investment consists of securities or shares and—
- the investor receives any value (other than an amount of insignificant value) from the CDFI during the 6 year period,
  - the investment or a part of it is held by the investor at the time the value is received and has been held by the investor, as sole beneficial owner, continuously since the investment was made (“the continuing investment”),
  - the receipt is wholly or partly in excess of the permitted level of receipts in respect of the continuing investment, and
  - the amount of that excess <sup>F16</sup>... is not an amount of insignificant value.
- (2) Any CITR attributable to the continuing investment in respect of any tax year must be withdrawn.
- (3) For the purposes of subsection (1) the permitted level of receipts is exceeded if—
- any amount of value is received by the investor (ignoring any amounts of insignificant value) in the first 3 years of the 6 year period, or
  - the total amount of value received by the investor (ignoring any amounts of insignificant value)—
    - before the beginning of the fifth year of that period, exceeds 25% of the invested capital,
    - before the beginning of the final year of that period, exceeds 50% of the invested capital, or
    - before the end of that period, exceeds 75% of the invested capital.
- (4) In this section—
- “the invested capital”, in relation to the continuing investment, means the amount subscribed for the securities or shares concerned, and
- “an amount of insignificant value” means an amount of value which—
- is not more than £1,000, or
  - if it is more than £1,000, is insignificant in relation to the amount subscribed by the investor for the securities or shares included in the continuing investment.
- (5) This section is subject to section 368 (value received if there is more than one investment).
- (6) Value received is ignored, for the purposes of this section, so far as CITR attributable to any loan, securities or shares in respect of any one or more tax years has already been reduced or withdrawn on its account.

*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

### **Textual Amendments**

**F16** Words in s. 364(1)(d) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 516, **Sch. 3 Pt. 1** (with Sch. 2)

## **365 Receipts of insignificant value to be added together**

- (1) This section applies if—
- (a) value is received (“the relevant receipt”) by the investor from the CDFI at any time during the 6 year period relating to the investment,
  - (b) the investor has received from the CDFI one or more receipts of insignificant value at a time or times—
    - (i) during that period, but
    - (ii) not later than the time of the relevant receipt, and
  - (c) the total amount of the value of the receipts within paragraph (a) and (b) is not an amount of insignificant value.
- (2) The investor is treated for the purposes of this Part as if the relevant receipt had been a receipt of an amount of value equal to that total amount.
- (3) A receipt does not fall within subsection (1)(b) if the whole or any part of it has previously formed part of a total amount falling within subsection (1)(c).
- (4) For the purposes of this section “an amount of insignificant value” means an amount of value which—
- (a) is not more than £1,000, or
  - (b) if it is more than £1,000, is insignificant in relation to the relevant amount.
- (5) If the investment consists of a loan, the relevant amount for the purposes of subsection (4) is—
- (a) if the relevant receipt is received in the first or second year of the 6 year period, the average capital balance of the loan for the second year of that period, and
  - (b) if the relevant receipt is received in a later year, the average capital balance of the loan for the year in question.
- (6) For the purposes of subsection (5)—
- (a) the average capital balance of the loan for a year is the mean of the daily balances of capital outstanding during the year, and
  - (b) the relevant receipt and any receipts within subsection (1)(b) are ignored when calculating the average capital balance for the year in question.
- (7) If the investment consists of securities or shares, the relevant amount for the purposes of subsection (4) is—
- (a) if the relevant receipt is received in the first year of the 6 year period, the amount subscribed for the securities or shares, and
  - (b) in any other case, the amount subscribed for such of the securities or shares as—
    - (i) are held by the investor at the time the relevant receipt is received, and
    - (ii) have been held by the investor, as sole beneficial owner, continuously since the investment was made.

*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

[<sup>F17</sup>(8) This section is subject to section 368 (value received if there is more than one investment).]

#### Textual Amendments

**F17** S. 365(8) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 517](#) (with [Sch. 2](#))

### 366 When value is received

- (1) For the purposes of this Chapter the investor receives value from the CDFI at any time when the CDFI—
  - (a) repays, redeems or repurchases any securities or shares included in the investment,
  - (b) releases or waives any liability of the investor to the CDFI or discharges, or undertakes to discharge, any liability of the investor to a third person,
  - (c) makes a loan or advance to the investor which has not been repaid in full before the investment is made,
  - (d) provides a benefit or facility for the investor or any associate of the investor,
  - (e) disposes of an asset to the investor for no consideration or for a consideration of an amount or value which is less than the market value of the asset,
  - (f) acquires an asset from the investor for a consideration of an amount or value which is more than the market value of the asset, or
  - (g) makes a payment to the investor other than a qualifying payment.
- (2) For the purposes of subsection (1)(b) the CDFI is treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (3) For the purposes of subsection (1)(c) the following are treated as loans made by the CDFI to the investor—
  - (a) the amount of any debt due from the investor to the CDFI (other than an ordinary trade debt), and
  - (b) the amount of any debt due from the investor to a third person which has been assigned to the CDFI.
- (4) For the purposes of this section—
  - (a) references to a debt or liability do not, in relation to a person, include references to any debt or liability which would be discharged by the making by that person of a qualifying payment,
  - (b) references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would have been a qualifying payment, and
  - (c) any reference to a payment or disposal to a person includes a reference to a payment or disposal made to that person indirectly or to that person's order or for that person's benefit.

*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

- (5) In subsection (4) references to “a person” include references to any other person who, at any time in the 6 year period, is connected with that person, whether or not the other person is so connected at the material time.
- (6) In this section—
- “qualifying payment” means—
- (a) any payment by any person for any goods, services or facilities provided by the investor (in the course of the investor's trade or otherwise) which is reasonable in relation to the market value of those goods, services or facilities,
  - (b) the payment by any person of any interest which represents no more than a reasonable commercial return on money lent to that person,
  - (c) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or securities of that company,
  - (d) any payment for the acquisition of an asset which does not exceed its market value,
  - (e) the payment by any person, as rent for any property occupied by the person, of an amount which is not more than a reasonable and commercial rent for the property, and
  - (f) a payment in discharge of an ordinary trade debt, and
- “ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business if any credit given—
- (a) is for not more than 6 months, and
  - (b) is not longer than that normally given to customers of the person carrying on the trade or business.

### **367 The amount of value received**

In a case falling within a provision listed in column 1 of the following table, the amount of value received for the purposes of this Chapter is given by the corresponding entry in column 2 of the table.

<i>Provision</i>	<i>The amount of value received</i>
Section 366(1)(a)	The amount received by the investor
Section 366(1)(b)	The amount of the liability
Section 366(1)(c)	The amount of the loan or advance, less the amount of any repayment made before the investment is made
Section 366(1)(d)	The cost to the CDFI of providing the benefit or facility, less any consideration given for it by the investor or any associate of the investor
Section 366(1)(e) or (f)	The difference between the market value of the asset and the consideration (if any) received for it
Section 366(1)(g)	The amount of the payment

*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

### **368 Value received if there is more than one investment**

- (1) This section applies if—
- (a) the investor makes two or more investments in the CDFI,
  - (b) the investor is eligible for and claims CITR in respect of those investments, and
  - (c) the investor receives value (other than value within section 366(1)(a)) which [<sup>F18</sup>is received] within the 6 year periods relating to two or more of those investments.
- (2) Sections 363, 364, 365 and 369 have effect in relation to each investment referred to in subsection (1)(c) as if the amount of the value received were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

- (a) A is the appropriate amount in respect of the investment in question, and
  - (b) B is the sum of that amount and the appropriate amount or amounts in respect of the other investment or investments.
- (3) If the investment consists of a loan, the appropriate amount for the purposes of subsection (2) is—
- (a) if the value is received in the first or second year of the 6 year period, the average capital balance of the loan for the second year of that period, and
  - (b) if the value is received in a later year, the average capital balance of the loan for the year in question.
- (4) For the purposes of subsection (3)—
- (a) the average capital balance of the loan for a year is the mean of the daily balances of capital outstanding during the year, and
  - (b) the receipt of value is ignored when calculating the average capital balance for the year in question.
- (5) If the investment consists of securities or shares, the appropriate amount for the purposes of subsection (2) is—
- (a) if the value is received in the first year of the 6 year period, the amount subscribed for the securities or shares, and
  - (b) in any other case, the amount subscribed for such of the securities or shares as—
    - (i) are held by the investor at the time the value is received, and
    - (ii) have been held by the investor, as sole beneficial owner, continuously since the investment was made.

*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

### Textual Amendments

**F18** Words in s. 368(1)(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 518](#) (with [Sch. 2](#))

## 369 Effect of receipt of value on future claims for CITR

- (1) This section applies if the investment consists of securities or shares and—
- (a) the investor receives any value (other than an amount of insignificant value) from the CDFI during the 6 year period, and
  - (b) the investment or a part of it is held by the investor at the time the value is received and has been held by the investor, as sole beneficial owner, continuously since the investment was made (“the continuing investment”), but no CITR attributable to the continuing investment is withdrawn under section 364 as a result of the receipt.
- (2) For the purposes of calculating any CITR in respect of any securities or shares included in the continuing investment for any relevant tax year, the amount subscribed for the securities or shares included in the continuing investment is treated as reduced by the amount of the value received.
- (3) For this purpose the “relevant” tax years are—
- (a) any tax year ending on or after the anniversary of the investment date immediately before the receipt of value, or
  - (b) if the value was received on an anniversary of the investment date, any tax year ending on or after that anniversary.
- (4) For the purposes of this section “an amount of insignificant value” means an amount of value which—
- (a) is not more than £1,000, or
  - (b) if it is more than £1,000, is insignificant in relation to the amount subscribed by the investor for the securities or shares included in the continuing investment.

[<sup>F19</sup>(5) This section is subject to section 368 (value received if there is more than one investment).]

### Textual Amendments

**F19** S. 369(5) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 519](#) (with [Sch. 2](#))

## 370 Receipts of value by or from connected persons

In sections 363 to 369, if the context permits, references to the investor or the CDFI include references to any person who at any time in the 6 year period relating to the investment is connected with the investor or, as the case may be, the CDFI, whether or not the person is connected at the material time.

*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

### *CITR not due*

#### **371 CITR subsequently found not to have been due**

If any CITR has been obtained which is subsequently found not to have been due, the CITR must be withdrawn.

#### *Manner of withdrawal or reduction*

#### **372 Manner of withdrawal or reduction of CITR**

- (1) This section applies if any CITR has been obtained which falls to be withdrawn or reduced under this Chapter.
- (2) The CITR must be withdrawn or reduced by making an assessment to income tax for the tax year for which the CITR was obtained.
- (3) No assessment may be made under subsection (2) because of any event occurring after the death of the investor.
- [<sup>F20</sup>(4) An assessment under this paragraph may be made at any time not more than 6 years after the end of the tax year for which the relief was obtained.
- (5) Subsection (4) is without prejudice to section 36(1A) of TMA 1970 (loss of tax brought about deliberately etc).]

#### **Textual Amendments**

**F20** S. 372(4)(5) inserted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 60](#); S.I. 2009/403, art. 2(2) (with art. 10)

## **CHAPTER 7**

### **SUPPLEMENTARY AND GENERAL**

#### *[<sup>F21</sup>Alternative finance arrangements*

#### **Textual Amendments**

**F21** S. 372A and cross-heading inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 2 para. 51](#) (with Sch. 9 paras. 1-9, 22)

#### **372A Meaning of “loan” and “interest”**

- (1) In this Part and regulations made under Chapter 2 of this Part—
  - (a) references to a “loan” include references to alternative finance arrangements, and
  - (b) references to “interest” include references to alternative finance return.

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*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

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- (2) In subsection (1)—
- “alternative finance arrangements” means arrangements to which any of the following applies—
- (a) section 564C (purchase and resale arrangements),
  - (b) section 564E (deposit arrangements), and
  - (c) section 564F (profit share agency arrangements), and
- “alternative finance return” has the meaning given by section 564I and 564L(1) and (2).
- (3) Subsection (1) needs to be read with—
- (a) section 372B, in the case of arrangements to which section 564C applies,
  - (b) section 372C, in the case of arrangements to which section 564E applies, and
  - (c) section 372D, in the case of arrangements to which section 564F applies.]

**[<sup>F22</sup>372B Purchase and resale arrangements**

- (1) This section applies if, under arrangements to which section 564C applies, a person (“the first purchaser”) purchases an asset that is sold to another person (“the second purchaser”).
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The first purchaser is treated as making a loan to the second purchaser.
- (4) The amount of the loan is treated as being equal to the first purchase price.
- (5) If the arrangements provide that the first purchaser will transfer ownership of the asset to the second purchaser in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the asset being transferred to the second purchaser in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is transferred to the second purchaser, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments transferred at that date.
- (6) In calculating the amount of capital outstanding on the loan, each payment of the second purchase price (or part of the second purchase price), as reduced by any amount of alternative finance return included within each payment, is treated as repayment of the loan capital.
- (7) References to the beneficial owner of the loan include references to the person beneficially entitled to payment of the second purchase price.
- (8) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive payment of the whole or any part of the outstanding second purchase price.
- (9) If arrangements to which section 564C applies are, as a result of this section, qualifying investments under Chapter 3 of this Part, paragraph (f) of section 366(1) is to be ignored in relation to the arrangements concerned.



*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Part 7. (See end of Document for details)*

- (10) In this section “the first purchase price” and “the second purchase price” have the same meaning as in section 564C.]

#### Textual Amendments

**F22** S. 372B inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 2 para. 52** (with Sch. 9 paras. 1-9, 22)

#### [<sup>F23</sup>372C Deposit arrangements

- (1) This section applies if, under arrangements to which section 564E applies, a person (“the depositor”) deposits money with a financial institution.
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The depositor is treated as making a loan to the financial institution.
- (4) The amount of the loan is treated as being equal to the money deposited under the arrangements.
- (5) If the arrangements provide that the depositor will deposit a sum of money with the financial institution in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the depositor depositing a sum of money with the financial institution in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is deposited with the financial institution, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments deposited with the financial institution at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable deposit.
- (7) References to any repayment of the loan include references to any repayment of the deposit.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the deposit.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the deposit.
- (10) In this section “financial institution” has the same meaning as in Part 10A (see section 564B).]

#### Textual Amendments

**F23** S. 372C inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 2 para. 53** (with Sch. 9 paras. 1-9, 22)

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## [<sup>F24</sup>372D Profit share agency arrangements

- (1) This section applies if, under arrangements to which section 564F applies, a person (“the principal”) appoints a financial institution as agent.
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The principal is treated as making a loan to the agent.
- (4) The amount of the loan is treated as being equal to the money provided by the principal to the agent under the arrangements.
- (5) If the arrangements provide that the principal will provide a sum of money to the agent in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the principal providing a sum of money to the agent in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is provided to the agent, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments provided to the agent at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable money provided to the agent.
- (7) References to any repayment of the loan include references to any repayment of the money provided to the agent.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the money provided to the agent.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the money provided to the agent.
- (10) In subsection (1) “financial institution” has the same meaning as in Part 10A (see section 564B).]

### Textual Amendments

- F24** S. 372D inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 2 para. 54](#) (with Sch. 9 paras. 1-9, 22)

### *Miscellaneous*

## 373 Information to be provided by the investor

- (1) If—
  - (a) the investor has obtained CITR in respect of the investment, and

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- (b) an event occurs because of which CITR attributable to the investment [<sup>F25</sup>in respect of] any tax year falls to be withdrawn or reduced by virtue of section 360, 361, 362 or 364,  
the investor must give an officer of Revenue and Customs a notice containing particulars of the event.
- (2) Subject to subsection (3), a notice under subsection (1) must be given not later than the normal self-assessment filing date for the tax year in which the event occurred.
- (3) If—
- (a) the investor is required to give a notice as a result of the receipt of value by a person connected with the investor (see section 370), and
- (b) the end of the period of 60 days beginning when the investor comes to know of that event is later than the final notice date under subsection (2),  
the notice must be given before the end of that 60 day period.

#### Textual Amendments

**F25** Words in s. 373(1)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 520** (with Sch. 2)

### 374 Disclosure

- (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise prevents the disclosure of information—
- (a) by the Secretary of State to an officer of Revenue and Customs for the purpose of assisting Her Majesty's Revenue and Customs to discharge their functions under the Income Tax Acts so far as relating to matters arising under this Part, or
- (b) by an officer of Revenue and Customs to the Secretary of State for the purpose of assisting the Secretary of State to discharge the Secretary of State's functions under this Part.
- (2) Information obtained by such disclosure is not to be further disclosed except for the purposes of legal proceedings arising out of the functions referred to.

### 375 Nominees

- (1) For the purposes of this Part—
- (a) loans made by or to, or disposed of by, a nominee for a person are treated as made by or to, or disposed of by, that person, and
- (b) securities or shares subscribed for by, issued to, acquired or held by or disposed of by a nominee for a person are treated as subscribed for by, issued to, acquired or held by or disposed of by that person.
- (2) For the purposes of subsection (1) references to things done by or to a nominee for a person include things done by or to a bare trustee for a person.

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### **376 Application for postponement of tax pending appeal**

No application may be made under section 55(3) or (4) of TMA 1970 (application for postponement of payment of tax pending appeal) on the ground that an individual is eligible for CITR unless a claim for the CITR has been duly made by the individual under this Part.

### **377 Identification of securities or shares on a disposal**

- (1) This section applies for the purpose of identifying the securities or shares disposed of in any case where—
- (a) the investor disposes of part of a holding of securities or shares (“the holding”), and
  - (b) the holding includes securities or shares to which CITR is attributable in respect of one or more tax years that have been held continuously by the investor from the time they were issued until the disposal.

- (2) Any disposal by the investor of securities or shares included in the holding which have been acquired by the investor on different days is treated as relating to those acquired on an earlier day rather than to those acquired on a later day.

- (3) If there is a disposal by the investor of securities or shares included in the holding which have been acquired by the investor on the same day, any of those securities or shares—
- (a) to which CITR is attributable, and
  - (b) which have been held by the investor continuously from the time they were issued until the time of disposal,

are treated as disposed of after any other securities or shares included in the holding which were acquired by the investor on that day.

- (4) For the purposes of this section a holding of securities is any number of securities of a company which—
- (a) carry the same rights,
  - (b) were issued under the same terms, and
  - (c) are held by the investor in the same capacity.

It does not matter for this purpose that the number of the securities grows or diminishes as securities carrying those rights and issued under those terms are acquired or disposed of.

- (5) For the purposes of this section a holding of shares is any number of shares in a company which—
- (a) are of the same class, and
  - (b) are held by the investor in the same capacity.

It does not matter for this purpose that the number of the shares grows or diminishes as shares of that class are acquired or disposed of.

- (6) In a case to which section 127 of TCGA 1992 (equation of original shares and new holding) applies, shares comprised in the new holding are to be treated for the purposes of subsections (2) and (3) as acquired when the original shares were acquired.

- (7) In subsection (6)—

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- (a) the reference to section 127 of TCGA 1992 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and
- (b) “original shares” and “new holding” have the same meaning as in section 127 of TCGA 1992 or (as the case may be) that section as applied by virtue of the enactment in question.

### *Definitions*

#### **378 Meaning of “issue of securities or shares”**

- (1) In this Part—
  - (a) references (however expressed) to an issue of securities of any body are to such securities of that body as carry the same rights and are issued under the same terms and on the same day, and
  - (b) references (however expressed) to an issue of shares in any body are to such shares in that body as are of the same class and issued on the same day.
- (2) In this Part references (however expressed) to an issue of securities of or shares in a body to an individual are to such of the securities or shares in an issue of securities of or shares in that body as are issued to that individual in one capacity.

#### **379 Meaning of “disposal”**

- (1) Subject to subsection (2), in this Part “disposal” is read in accordance with TCGA 1992, and related expressions are read accordingly.
- (2) An investor is treated as disposing of any securities or shares which but for section 151BC(1) of TCGA 1992 the investor—
  - (a) would be treated as exchanging for other securities or shares by virtue of section 136 of that Act, or
  - (b) would be so treated but for section 137(1) of that Act (which restricts section 136 to genuine reconstructions).

#### **380 Construction of references to being “held continuously”**

- (1) This section applies if for the purposes of this Part it becomes necessary to determine whether the investor has held the investment (or any part of it) continuously throughout any period.
- (2) The investor is not treated as having held the investment (or any part of it) continuously throughout a period if the investor—
  - (a) is treated, under any provision of TCGA 1992, as having disposed of and immediately re-acquired the investment (or part) at any time during the period, or
  - (b) is treated as having disposed of the investment (or part) at any such time, by virtue of section 379(2).

#### **381 Meaning of “associate”**

- (1) In this Part “associate”, in relation to a person, means—
  - (a) any relative or partner of that person,

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- (b) the trustee or trustees of any settlement in relation to which that person, or any relative of that person (living or dead), is or was a settlor, and
- (c) if that person has an interest in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person—
  - (i) the trustee or trustees of the settlement concerned or, as the case may be, the personal representatives of the deceased, and
  - (ii) if that person is a company, any other company which has an interest in those shares or obligations.
- (2) In subsection (1)(a) and (b) “relative” means spouse or civil partner, ancestor or lineal descendant.
- (3) In subsection (1)(b) “settlor” and “settlement” have the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).

### **382 Minor definitions etc**

- (1) In this Part—
  - “body” includes an unincorporated association, and
  - “bonus shares” means shares which are issued otherwise than for payment (whether in cash or otherwise).
- (2) For the purposes of this Part shares in a company are not treated as being of the same class unless they would be so treated if dealt in on [<sup>F26</sup>a recognised stock exchange].
- (3) For the purposes of this Part the market value at any time of any asset is the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it.
- (4) In this Part—
  - (a) references to CITR obtained by the investor in respect of any investment (or part of an investment) include references to CITR obtained by the investor in respect of that investment (or part) at any time after the investor has disposed of it, and
  - (b) references to the withdrawal or reduction of CITR obtained by the investor in respect of the investment (or any part of it) include references to the withdrawal or reduction of CITR obtained in respect of that investment (or part) at any such time.
- (5) In the case of any condition that cannot be met until a future date—
  - (a) references in this Part to a condition being met for the time being are to nothing having occurred to prevent its being met, and
  - (b) references to its continuing to be met are to nothing occurring to prevent its being met.

#### **Textual Amendments**

**F26** Words in s. 382(2) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 26 para. 12\(8\)](#)

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