



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 7

#### COMMUNITY INVESTMENT TAX RELIEF

### 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- (1) This Chapter provides for CITR to be withdrawn or reduced under—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- (2) This Chapter also provides for the manner in which CITR is to be withdrawn or reduced (see section 372).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.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 6. (See end of Document for details)*

## *Disposals*

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

- (1) If the investment consists of a loan and within the 5 year period—
- (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- any CITR attributable to the investment in respect of any tax year must be withdrawn.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.
- [<sup>F1</sup>(3) Subsections (3A) to (3H) apply if—
- (a) the disposal is a qualifying disposal, and
  - (b) the investor has made a claim under section 335 in respect of the former investment for a tax year (“tax year X”).
- (3A) Subsection (3B) applies if the total of the following CITR does not exceed A—
- (a) any CITR attributable to the former investment in respect of tax year X given under section 335, and
  - (b) any CITR attributable to the former investment in respect of later tax years given under section 335A where tax year X is the tax year mentioned in section 335A(1)(a).
- (3B) All CITR falling within subsection (3A)(a) or (b) must be withdrawn.
- (3C) If the total of the CITR falling within subsection (3A)(a) or (b) exceeds A, that total must be reduced by A.

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(3D) For the purposes of subsection (3C) CITR given in a later tax year must be reduced before CITR given in an earlier tax year.

(3E) For the purposes of subsections (3A) and (3C) “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.

(3F) If—

- (a) the total of the CITR falling within subsection (3A)(a) or (b) (“B”) is less than
- (b) the amount (“C”) which is equal to 5% of the invested amount in respect of the former investment for tax year X,

“A” is to be reduced by multiplying it by the fraction—

$$\frac{B}{C}$$

(3G) 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 (3F) as B is to be treated for the purposes of that subsection as the amount it would have been without the reduction.

(3H) Subsection (3G) does not apply to a reduction by virtue of section 358 (attribution: bonus shares).]

(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).

<sup>F2</sup>(5) .....

<sup>F2</sup>(6) .....

<sup>F2</sup>(7) .....

#### Textual Amendments

**F1** S. 361(3)-(3H) substituted for s. 361(3) (with effect in accordance with Sch. 27 para. 6 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 27 para. 5\(2\)](#)

**F2** S. 361(5)-(7) omitted (with effect in accordance with Sch. 27 para. 6 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 27 para. 5\(3\)](#)

### *Repayment of loans*

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

(1) If the investment consists of a loan and—

- (a) 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
  - (b) 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—

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- “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—
- (a) 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,
  - (b) for the fourth year of that period, 50% of that balance, and
  - (c) 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.
  - (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).

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- (5) For the purposes of this section “an amount of insignificant value” means an amount [<sup>F3</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).
- (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

- F3** 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—
- (a) the investor receives any value (other than an amount of insignificant value) from the CDFI during the 6 year period,
  - (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”),
  - (c) the receipt is wholly or partly in excess of the permitted level of receipts in respect of the continuing investment, and
  - (d) the amount of that excess <sup>F4</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—
- (a) 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
  - (b) the total amount of value received by the investor (ignoring any amounts of insignificant value)—
    - (i) before the beginning of the fifth year of that period, exceeds 25% of the invested capital,
    - (ii) before the beginning of the final year of that period, exceeds 50% of the invested capital, or
    - (iii) before the end of that period, exceeds 75% of the invested capital.

*Status: Point in time view as at 15/09/2016.*

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- (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—
- (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.
- (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.

#### Textual Amendments

- F4** 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.

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- (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.
- [<sup>F5</sup>(8) This section is subject to section 368 (value received if there is more than one investment).]

#### Textual Amendments

- F5** 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

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- (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.
- (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



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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

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### **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>F6</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)—

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- (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.

#### Textual Amendments

- F6** 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>F7</sup>(5) This section is subject to section 368 (value received if there is more than one investment).]

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#### Textual Amendments

- F7** 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.

*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>F8</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

- F8** 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)

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**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 6.