



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 7 U.K.

#### COMMUNITY INVESTMENT TAX RELIEF

### CHAPTER 6 U.K.

#### WITHDRAWAL OR REDUCTION OF CITR

##### *Receipts of value*

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

- (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).

*Status: Point in time view as at 21/07/2009.*

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

- (5) 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 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CITR attributable to any loan, securities or shares in respect of any one or more tax years has already been reduced or withdrawn on its account.

### **364 Value received by investor during 6 year period: securities or shares** U.K.

- (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 (“the excess”) 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.
- (4) In this section—
- “the invested capital”, in relation to the continuing investment, means the amount subscribed for the securities or shares concerned, and

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“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.

### **365 Receipts of insignificant value to be added together U.K.**

- (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

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- (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.

### 366 When value is received **U.K.**

- (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.
- (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—

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- (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 **U.K.**

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

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

- (1) This section applies if—
  - (a) the investor makes two or more investments in the CDFI,

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- (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 falls 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.

### **369 Effect of receipt of value on future claims for CITR U.K.**

- (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

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- (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.

### **370 Receipts of value by or from connected persons** **U.K.**

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.

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