



Income Tax Act 2007

2007 CHAPTER 3

PART 4

LOSS RELIEF

CHAPTER 6

LOSSES ON DISPOSAL OF SHARES

Qualifying trading companies: the requirements

137 The trading requirement

- (1) The trading requirement is that—
 - (a) the company, ignoring any incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, or
 - (b) the company is a parent company and the business of the group does not consist wholly or as to a substantial part in the carrying on of non-qualifying activities.
- (2) If the company intends that one or more other companies should become its qualifying subsidiaries with a view to their carrying on one or more qualifying trades—
 - (a) the company is treated as a parent company for the purposes of subsection (1)(b), and
 - (b) the reference in subsection (1)(b) to the group includes the company and any existing or future company that will be its qualifying subsidiary after the intention in question is carried into effect.

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

- (3) For the purpose of subsection (1)(b) the business of the group means what would be the business of the group if the activities of the group companies taken together were regarded as one business.

Status: Point in time view as at 30/11/2015.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Section 137. (See end of Document for details)

- (4) For the purpose of determining the business of a group, activities are ignored so far as they are activities carried on by a mainly trading subsidiary otherwise than for its main purpose.
- (5) For the purposes of determining the business of a group, activities of a group company are ignored so far as they consist in—
- (a) the holding of shares in or securities of a qualifying subsidiary of the parent company,
 - (b) the making of loans to another group company,
 - (c) the holding and managing of property used by a group company for the purpose of one or more qualifying trades carried on by a group company, or
 - (d) the holding and managing of property used by a group company for the purpose of research and development from which it is intended—
 - (i) that a qualifying trade to be carried on by a group company will be derived, or
 - (ii) that a qualifying trade carried on or to be carried on by a group company will benefit.
- (6) Any reference in subsection (5)(d)(i) or (ii) to a group company includes a reference to any existing or future company which will be a group company at any future time.
- (7) In this section—
- “excluded activities” has the meaning given by section 192 read with sections 193 to 199,
- “group” means a parent company and its qualifying subsidiaries,
- “group company”, in relation to a group, means the parent company or any of its qualifying subsidiaries,
- “incidental purposes” means purposes having no significant effect (other than in relation to incidental matters) on the extent of the activities of the company in question,
- “mainly trading subsidiary” means a subsidiary which, apart from incidental purposes, exists wholly for the purpose of carrying on one or more qualifying trades, and any reference to the main purpose of such a subsidiary is to be read accordingly,
- “non-qualifying activities” means—
- (a) excluded activities, and
 - (b) activities (other than research and development) carried on otherwise than in the course of a trade,
- “parent company” means a company that has one or more qualifying subsidiaries,
- “qualifying subsidiary” is to be read in accordance with section 191,
- “qualifying trade” has the meaning given by section 189, and
- “research and development” has the meaning given by section 1006.
- (8) In sections 189(1)(b) and 194(4)(c) (as applied by subsection (7) for the purposes of the definitions of “excluded activities” and “qualifying trade”) “period B” means the continuous period that is relevant for the purposes of section 134(3).
- [^{F1}(9) In section 195 as applied by subsection (7) for the purposes mentioned in subsection (8), references to the issuing company are to be read as references to the company mentioned in subsection (1).]

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Textual Amendments

F1 S. 137(9) inserted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 paras. 11\(5\), 13](#)

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