



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 5

#### ENTERPRISE INVESTMENT SCHEME

### CHAPTER 4

#### THE ISSUING COMPANY

#### *Definitions*

#### **190 Meaning of “qualifying 90% subsidiary”**

- (1) For the purposes of this Part, a company (“the subsidiary”) is a qualifying 90% subsidiary of another company (“the relevant company”) if the following conditions are met—
- (a) the relevant company possesses at least 90% of the issued share capital of, and at least 90% of the voting power in, the subsidiary,
  - (b) the relevant company would—
    - (i) in the event of a winding up of the subsidiary, or
    - (ii) in any other circumstances,be beneficially entitled to receive at least 90% of the assets of the subsidiary which would then be available for distribution to equity holders of the subsidiary,
  - (c) the relevant company is beneficially entitled to receive at least 90% of any profits of the subsidiary which are available for distribution to equity holders of the subsidiary,
  - (d) no person other than the relevant company has control of the subsidiary, and
  - (e) no arrangements are in existence by virtue of which any of the conditions in paragraphs (a) to (d) would cease to be met.

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Section 190. (See end of Document for details)*

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- [<sup>F1</sup>(1A) For the purposes of this Part, a company (“company A”) which is a subsidiary of another company (“company B”) is a qualifying 90% subsidiary of a third company (“company C”) if—
- (a) company A is a qualifying 90% subsidiary of company B, and company B is a qualifying 100% subsidiary of company C, or
  - (b) company A is a qualifying 100% subsidiary of company B, and company B is a qualifying 90% subsidiary of company C.
- (1B) For the purposes of subsection (1A), no account is to be taken of any control company C may have of company A.
- (1C) For those purposes, a company (“company X”) is a qualifying 100% subsidiary of another company (“company Y”) at any time when the conditions in subsection (1) (a) to (e) would be met if—
- (a) company X were the subsidiary,
  - (b) company Y were the relevant company, and
  - (c) in subsection (1) for “at least 90%” in each place there were substituted “100%”.]
- (2) Subsections (3), (4) and (5) of section 191 (conditions not regarded as ceasing to be met because of winding up, dissolution, administration, receivership or arrangements for disposal not having tax avoidance as main purpose) apply in relation to the conditions in subsection (1)—
- (a) as they apply in relation to the conditions in subsection (2) of that section, but
  - (b) with the omission from subsection (5) of “or (as the case may be) by another subsidiary”.
- (3) For the purposes of subsection (1)—
- (a) the persons who are equity holders of the subsidiary, and
  - (b) the percentage of the assets of the subsidiary to which an equity holder would be entitled,
- are to be determined in accordance with [<sup>F2</sup>Chapter 6 of Part 5 of CTA 2010].
- (4) In making that determination—
- (a) references in [<sup>F3</sup>section 166 of that Act to company A] are to be read as references to an equity holder, and
  - (b) references in that [<sup>F4</sup>section] to a winding up are to be read as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.

#### Textual Amendments

- F1** S. 190(1A)-(1C) inserted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 paras. 16\(2\), 18](#)
- F2** Words in s. 190(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. 500\(a\)](#) (with [Sch. 2](#))
- F3** Words in s. 190(4)(a) 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. 500\(b\)](#) (with [Sch. 2](#))
- F4** Word in s. 190(4)(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. 500\(c\)](#) (with [Sch. 2](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax Act 2007, Section 190.