



Corporation Tax Act 2010

2010 CHAPTER 4

PART 6

CHARITABLE DONATIONS RELIEF

CHAPTER 2

CERTAIN PAYMENTS TO CHARITY

Qualifying payments

191 Qualifying payments

- (1) A payment made to a charity by a company is a qualifying payment for the purposes of this Chapter if each of conditions A to F is met.
- (2) Condition A is that the payment is a payment of a sum of money.
- (3) Condition B is that the payment is not subject to a condition as to repayment (but see section 192).
- (4) Condition C is that the company making the payment is not itself a charity.
- (5) Condition D is that the payment is not disqualified under section 193 (associated acquisition etc by the charity).
- (6) Condition E is that the payment is not disqualified under section 194 (certain distributions).
- (7) Condition F is that the payment is not disqualified under section 195 (associated benefits).

Status: Point in time view as at 01/04/2012.

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192 Condition as to repayment

- (1) If—
- (a) a company makes a payment to a charity (“the charitable payment”),
 - (b) the charity makes a payment to the company (“the repayment”), and
 - (c) each of conditions A to D is met,
- the charitable payment is not subject to a condition as to repayment.
- (2) Condition A is that the company is wholly owned by the charity, or by a number of charities that include the charity.
- (3) Condition B is that the charitable payment is of an amount which the company estimates to be the amount necessary to reduce to nil the company's taxable total profits for the accounting period in which the payment is made (“the relevant period”).
- (4) Condition C is that the only purpose for which the charity makes the repayment is to adjust the amount of the charitable payment so that it is of the amount actually necessary to reduce to nil the company's taxable total profits for the relevant period.
- (5) Condition D is that the repayment is made no later than 12 months after the end of the relevant period.
- (6) If subsection (1) applies—
- (a) the repayment is not non-charitable expenditure for the purposes of section 493 or 515 of this Act or section 543(1)(f) of ITA 2007, and
 - (b) paragraphs 56 and 62 (but not 64) of Schedule 18 to FA 1998 (supplementary claims or elections) apply to the repayment.

193 Associated acquisition etc

- (1) A payment is disqualified under this section if—
- (a) it is conditional on an acquisition of property by the charity from the company or a person associated with the company,
 - (b) it is associated with such an acquisition, or
 - (c) it is part of an arrangement involving such an acquisition.
- (2) An acquisition by way of gift is to be ignored for the purposes of this section.

194 Distributions

- (1) A payment is disqualified under this section if it is to be regarded as a distribution by reason of any provision of the Taxes Acts (within the meaning of TMA 1970) except section 1020 (transfers of assets or liabilities treated as distributions).
- (2) In deciding whether a payment is to be regarded as a distribution for the purposes of subsection (1), section 1002(2) is to be ignored.
- (3) A payment (other than a dividend) made by a company which is wholly owned by a charity is not to be regarded as a distribution for the purposes of subsection (1).

195 Associated benefits

- (1) A payment is disqualified under this section if—
- (a) benefits are associated with the payment, and

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- (b) the restrictions on benefits associated with a payment are breached.
- (2) Sections 196 to 198 apply for these purposes.

196 Associated benefits: meaning

For the purposes of this Chapter a benefit is associated with a payment if—

- (a) it is received by the company which made the payment or by a person associated with the company, and
- (b) it is received in consequence of making the payment.

197 Restrictions on associated benefits

- (1) For the purposes of this Chapter the restrictions on benefits associated with a payment are breached if condition A or B is met.
- (2) Condition A is that the total value of the benefits associated with the payment exceeds the variable limit, which is—
 - (a) 25% of the amount of the payment, if the amount of the payment is £100 or less,
 - (b) £25, if the amount of the payment is more than £100 but not more than £1,000,
 - (c) 5% of the amount of the payment, if the amount of the payment is more than £1,000.
- (3) Condition B is that the sum of the following total values is more than [^{F1}£2,500]—
 - (a) the total value of the benefits associated with the payment, and
 - (b) the total value of the benefits (if any) associated with each relevant prior payment.
- (4) A relevant prior payment is a payment—
 - (a) which has already been made by the company to the charity in the accounting period, and
 - (b) which is a qualifying payment.
- (5) This section needs to be read with section 198.

Textual Amendments

- F1** Sum in s. 197(3) substituted (with effect in accordance with s. 41(5) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 41\(2\)](#)

198 Payments and benefits linked to periods of less than 12 months

- (1) This section modifies the application of section 197(2) in relation to a payment if condition A, B, C or D is met.
- (2) Condition A is that a benefit associated with the payment relates to a period of less than 12 months.
- (3) Condition B is that a benefit associated with the payment consists of a right to receive benefits at intervals over a period of less than 12 months.

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- (4) Condition C is that a benefit associated with the payment is one of a series of benefits which are—
- (a) received at intervals, and
 - (b) associated with a series of payments made at intervals of less than 12 months.
- (5) Condition D is that—
- (a) a benefit associated with the payment is not one of a series of benefits received at intervals, and
 - (b) the payment is one of a series of payments made at intervals of less than 12 months.
- (6) If condition A, B or C is met, then for the purposes of section 197(2)—
- (a) the value of the benefit is taken to be the annual equivalent of its actual value, and
 - (b) the amount of the payment is taken to be the annual equivalent of its actual amount.
- (7) If condition D is met, the amount of the payment is taken for the purposes of section 197(2) to be the annual equivalent of its actual amount.
- (8) The annual equivalent of the value of a benefit, or of the amount of a payment, is found as follows.

Step 1

Multiply the value or amount by 365.

Step 2

If condition A or B is met in relation to the benefit (and neither condition C nor condition D is met in relation to it) divide the result by the number of days in the period of less than 12 months referred to in subsection (2) or (as the case may be) subsection (3).

If condition C or D is met in relation to the benefit, divide the result by the average number of days in the intervals of less than 12 months referred to in subsection (4)(b) or (as the case may be) subsection (5)(b).

Payment attributed to earlier period

199 Payment attributed to earlier accounting period

- (1) This section applies if—
- (a) a company makes a qualifying payment,
 - (b) the company is wholly owned by a charity, and
 - (c) the company makes a claim for the payment (or part of it) to be treated as a qualifying charitable donation made in an accounting period falling wholly or partly within the period of 9 months ending with the date of the making of the payment.
- (2) The payment (or part) is to be treated for corporation tax purposes as a qualifying charitable donation made in that accounting period and not in any later period.

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- (3) A claim must be made within the period of two years immediately following the accounting period in which the payment is made or such longer period as an officer of Revenue and Customs may allow.

Interpretation

200 Company wholly owned by a charity

- (1) For the purposes of this Chapter a company is wholly owned by a charity if condition A or B is met.
- (2) Condition A is that—
- (a) the company has an ordinary share capital, and
 - (b) every part of that share capital is owned by a charity (whether or not the same charity).
- (3) Condition B is that—
- (a) the company is limited by guarantee, and
 - (b) every beneficiary of the company is or must be a charity or a company wholly owned by a charity.
- (4) Ordinary share capital of a company is treated as owned by a charity if a charity—
- (a) directly or indirectly owns that share capital within the meaning of Chapter 3 of Part 24, or
 - (b) would be taken so to own it if references in that Chapter to a body corporate included references to a charity which is not a body corporate.
- (5) A beneficiary of a company is a person who—
- (a) is beneficially entitled to participate in the company's divisible profits, or
 - (b) will be beneficially entitled to share in any of the company's net assets available for distribution on its winding up.

Modifications etc. (not altering text)

- C1** S. 200 applied (with modifications) by 2007 c. 3, s. 809ZJ(9) (as inserted (with effect in accordance with Sch. 3 paras. 27, 28 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 1](#))

201 Associated persons

For the purposes of this Chapter a person is associated with a company if the person is connected with—

- (a) the company, or
- (b) a person connected with the company.

202 “Charity”

In this Chapter “charity” [^{F2}includes]—

- ^{F3}(a)
- (b) a scientific research association (as defined in section 469),

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- (c) the Trustees of the National Heritage Memorial Fund, ^{F4}or]
- (d) the Historic Buildings and Monuments Commission for England, ^{F5}...
- ^{F5}(e)

Textual Amendments

- F2** Word in s. 202 substituted (with effect in accordance with art. 21 of the commencing S.I.) by [Finance Act 2010 \(c. 13\)](#), **Sch. 6 paras. 27(2)(a)**, 34(2); S.I. 2012/736, art. 21
- F3** S. 202(a) omitted (with effect in accordance with art. 21 of the commencing S.I.) by virtue of [Finance Act 2010 \(c. 13\)](#), **Sch. 6 paras. 27(2)(b)**, 34(2); S.I. 2012/736, art. 21
- F4** Word in s. 202(2)(c) inserted (1.4.2012) by [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\)](#), arts. 1(2), 3(1), **Sch.**
- F5** S. 202(2)(e) and word omitted (1.4.2012) by virtue of [The Public Bodies \(Abolition of the National Endowment for Science, Technology and the Arts\) Order 2012 \(S.I. 2012/964\)](#), arts. 1(2), 3(1), **Sch.**

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