



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 7

#### COMMUNITY INVESTMENT TAX RELIEF

### CHAPTER 3

#### QUALIFYING INVESTMENTS

#### **344 Qualifying investments: introduction**

For the purposes of this Part the investment is a “qualifying investment” in the CDFI if—

- (a) the investment consists of—
  - (i) a loan in relation to which the conditions of section 345 are met,
  - (ii) securities in relation to which the conditions of section 346 are met, or
  - (iii) shares in relation to which the conditions of section 347 are met,
- (b) the investor receives from the CDFI a valid tax relief certificate in relation to the investment (see section 348), and
- (c) the requirements of section 349 (no pre-arranged protection against risks) are met.

#### **345 Conditions to be met in relation to loans**

- (1) Condition A of this section is that either—
  - (a) the CDFI receives from the investor, on the investment date, the full amount of the loan, or
  - (b) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the end of that period is not later than 18 months after the investment date.

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- (2) Condition B is that the loan must not carry any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within the 5 year period.
- (3) Condition C is that the loan must not have been made on terms that allow any person to require—
  - (a) the repayment during the first two years of the 5 year period of any of the loan capital advanced in those two years,
  - (b) the repayment during the third year of that period of more than 25% of the loan capital outstanding at the end of those two years,
  - (c) the repayment before the end of the fourth year of that period of more than 50% of that loan capital, or
  - (d) the repayment before the end of that period of more than 75% of that loan capital.
- (4) Subsection (3) does not apply if the CDFI is required to make the repayment as a result of its failure 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.
- (5) The Treasury may by order substitute any other percentage for any percentage for the time being specified in subsection (3).
- (6) Any such substitution is to have effect in relation to loans made by an individual on or after the date specified in the order.

### **346 Conditions to be met in relation to securities**

- (1) Condition A of this section is that the securities must be—
  - (a) subscribed for wholly in cash, and
  - (b) fully paid for on the investment date.
- (2) Condition B is that the securities must not carry—
  - (a) any present or future right to be redeemed within the 5 year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.
- (3) <sup>F1</sup>For the purposes of subsection (1)(b), securities are not fully paid for] if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the securities.

#### **Textual Amendments**

**F1** Words in s. 346(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. 510](#) (with [Sch. 2](#))

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### **347 Conditions to be met in relation to shares**

- (1) Condition A of this section is that the shares must be—
  - (a) subscribed for wholly in cash, and
  - (b) fully paid up on the investment date.
- (2) Condition B is that the shares must not carry—
  - (a) any present or future right to be redeemed during the 5 year period, or
  - (b) any present or future right to be converted into or exchanged for a loan which is, or securities, shares or other rights which are, redeemable within that period.
- (3) Shares are not fully paid up for the purposes of subsection (1)(b) if there is any undertaking to pay cash to the CDFI at a future date in connection with the acquisition of the shares.

### **348 Tax relief certificates**

- (1) A “tax relief certificate” means a certificate issued by the CDFI in respect of the investment which is in the form specified by the Commissioners for Her Majesty's Revenue and Customs.
- (2) The CDFI must not issue tax relief certificates under this section in respect of investments made in the CDFI in an accreditation period if the total value of—
  - (a) those investments, and
  - (b) any investments to which subsection (3) applies,will exceed the limit for that period.
- (3) This subsection applies to investments <sup>F2</sup>...—
  - (a) [<sup>F3</sup>which] have been made in the CDFI in the accreditation period, and
  - (b) in respect of which the CDFI has issued tax relief certificates under [<sup>F4</sup>section 229 of CTA 2010] (which makes in relation to corporation tax provision corresponding to that made by this section).
- (4) The limit for an accreditation period is—
  - (a) [<sup>F5</sup>£25 million] if the CDFI is accredited for the period as a retail community development finance institution (see section 340(8)), and
  - (b) [<sup>F6</sup>£100 million] in any other case.
- (5) For the purposes of subsection (2) the value of an investment made in the CDFI is—
  - (a) if the investment consists of a loan—
    - (i) the amount of the loan, or
    - (ii) if the loan agreement authorises the CDFI to draw down amounts of the loan over a period of time, the amount committed under the loan agreement, and
  - (b) if the investment consists of securities or shares, the amount subscribed for them.
- (6) The Treasury may by order substitute any other amount for any amount for the time being specified in subsection (4).
- (7) Any such substitution is to have effect in relation to such accreditation periods as may be specified in the order; and those periods may, if the substitution increases

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[<sup>F7</sup>an amount] for the time being specified in subsection (4), include periods beginning before the order [<sup>F8</sup>comes into force].

- (8) Any tax relief certificate issued in contravention of subsection (2) is invalid.
- (9) A body is liable to a penalty of not more than £3,000 if it issues a tax relief certificate which is made fraudulently or negligently.

#### Textual Amendments

- F2** Word in s. 348(3) 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. 511\(2\)\(a\), Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F3** Word in s. 348(3)(a) 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. 511\(2\)\(b\)](#) (with [Sch. 2](#))
- F4** Words in s. 348(3)(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. 511\(2\)\(c\)](#) (with [Sch. 2](#))
- F5** Sum in s. 348(4)(a) substituted (with effect in relation to accreditation periods ending on or after 1.6.2023) by [The Community Investment Tax Relief \(Amendment of Investment Limits\) Regulations 2023 \(S.I. 2023/518\), regs. 1, 2\(a\)](#)
- F6** Sum in s. 348(4)(b) substituted (with effect in relation to accreditation periods ending on or after 1.6.2023) by [The Community Investment Tax Relief \(Amendment of Investment Limits\) Regulations 2023 \(S.I. 2023/518\), regs. 1, 2\(b\)](#)
- F7** Words in s. 348(7) 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. 511\(3\)\(a\)](#) (with [Sch. 2](#))
- F8** Words in s. 348(7) 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. 511\(3\)\(b\)](#) (with [Sch. 2](#))

### 349 No pre-arranged protection against risks

- (1) Any arrangements—
  - (a) under which the investment is made, or
  - (b) made, before the investor makes the investment, in relation to or in connection with the making of the investment,
 must not include excluded arrangements.
- (2) For the purposes of subsection (1) “excluded arrangements”—
  - (a) means arrangements the main purpose or one of the main purposes of which is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for the investor against what would otherwise be the risks attached to making the investment, but
  - (b) does not include any arrangements which are confined to the provision for the investor of any protection against those risks which might reasonably be expected to be provided for commercial reasons if the investment were made in the course of a business of banking.
- (3) For the purposes of this section “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)