

## SCHEDULES

### SCHEDULE 15

Section 71.

#### VENTURE CAPITAL TRUSTS: RELIEF FROM INCOME TAX

##### PART I

##### RELIEF ON INVESTMENT

##### *Entitlement to claim relief*

- 1 (1) Subject to the following provisions of this Schedule, an individual shall, for any year of assessment, be entitled under this Part of this Schedule to claim relief in respect of an amount equal to the aggregate of the amounts (if any) which, by reference to eligible shares issued to him by venture capital trusts in the course of that year, are amounts on which he is eligible for relief in accordance with sub-paragraph (2) below.
- (2) The amounts on which an individual shall be taken for the purposes of sub-paragraph (1) above to be eligible for relief shall be any amounts subscribed by him on his own behalf for eligible shares issued by a venture capital trust for raising money.
- (3) An individual shall not be entitled under this Part of this Schedule to claim relief for any given year of assessment in respect of an amount of more than £100,000.
- (4) An individual shall not be entitled under this Schedule to claim any relief to which he is eligible by reference to any shares unless he had attained the age of eighteen years before those shares were issued.
- (5) Where an individual makes a claim for any relief to which he is entitled under this Part of this Schedule for any year of assessment, the amount of his liability for that year to income tax on his total income shall be equal to the amount to which he would be so liable apart from this Part of this Schedule less whichever is the smaller of—
- (a) an amount equal to tax at the lower rate for that year on the amount in respect of which he is entitled to claim relief for that year, and
  - (b) the amount which reduces his liability to nil.
- (6) In determining for the purposes of sub-paragraph (5) above the amount of income tax to which a person would be liable apart from this Part of this Schedule, no account shall be taken of—
- (a) any income tax reduction under section 289A,
  - (b) any income tax reduction under Chapter I of Part VII or under section 347B,
  - (c) any income tax reduction under section 353(1A),
  - (d) any income tax reduction under section 54(3A) of the Finance Act 1989,

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- (e) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1), or
  - (f) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.
- (7) Where, in the case of any claim for relief under this Part of this Schedule in respect of any shares issued in any year of assessment, effect is given to the claim by repayment of tax, section 824 shall have effect in relation to the repayment as if the time from which the twelve months mentioned in subsections (1)(a) and (3)(a) of that section are to be calculated were the end of the year of assessment in which the shares were issued.
- (8) A person shall not be entitled to be given any relief under this Part of this Schedule by reference to any shares if circumstances have arisen which would have resulted, had that relief already been given, in the withdrawal or reduction of the relief.
- (9) A person shall not under this Part of this Schedule be eligible for any relief on any amount by reference to any shares unless the shares are both subscribed for and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.

*Loan-linked investments*

- 2 (1) An individual shall not be entitled to relief under this Part of this Schedule in respect of any shares if—
- (a) there is a loan made by any person, at any time in the relevant period, to that individual or any associate of his; and
  - (b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not subscribed for those shares or had not been proposing to do so.
- (2) References in this paragraph to the making by any person of a loan to any individual or an associate of his include references—
- (a) to the giving by that person of any credit to that individual or any associate of his; and
  - (b) to the assignment or assignation to that person of any debt due from that individual or any associate of his.
- (3) In this paragraph—
- “associate” has the meaning given in subsections (3) and (4) of section 417, except that in those subsections (as applied for the purposes of this paragraph) “relative” shall not include a brother or sister; and
  - “the relevant period”, in relation to relief under this Part of this Schedule in respect of any shares in a company which is a venture capital trust, means the period beginning with the incorporation of the company (or, if the company was incorporated more than two years before the date on which the shares were issued, beginning two years before that date) and ending five years after the issue of the shares.

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*Loss of investment relief*

- 3 (1) This paragraph applies, subject to sub-paragraph (5) below, where—
- (a) an individual who has made any claim for relief under this Part of this Schedule makes any disposal of eligible shares in a venture capital trust, and
  - (b) that disposal takes place before the end of the period of five years beginning with the issue of those shares to that individual.
- (2) If the disposal is made otherwise than by way of a bargain made at arm's length, any relief given under this Part of this Schedule by reference to the shares which are disposed of shall be withdrawn.
- (3) Where the disposal was made by way of a bargain made at arm's length—
- (a) if, apart from this sub-paragraph, the relief given by reference to the shares that are disposed of is greater than the amount mentioned in sub-paragraph (4) below, it shall be reduced by that amount, and
  - (b) if paragraph (a) above does not apply, any relief given by reference to those shares shall be withdrawn.
- (4) The amount referred to in sub-paragraph (3) above is an amount equal to tax at the lower rate for the year of assessment for which the relief was given on the amount or value of the consideration which the individual receives for the shares.
- (5) This paragraph shall not apply in the case of any disposal of shares which is made by a married man to his wife or by a married woman to her husband if it is made, in either case, at a time when they are living together.
- (6) Where any eligible shares issued to any individual (“the transferor”), being shares by reference to which any amount of relief under this Part of this Schedule has been given, are transferred to the transferor's spouse (“the transferee”) by a disposal such as is mentioned in sub-paragraph (5) above, this paragraph shall have effect, in relation to any subsequent disposal or other event, as if—
- (a) the transferee were the person who had subscribed for the shares,
  - (b) the shares had been issued to the transferee at the time when they were issued to the transferor,
  - (c) there had been, in respect of the transferred shares, such a reduction under this Part of this Schedule in the transferee's liability to income tax as is equal to the actual reduction in respect of those shares of the transferor's liability, and
  - (d) that deemed reduction were (notwithstanding the transfer) to be treated for the purposes of this paragraph as an amount of relief given by reference to the shares transferred.
- (7) Any assessment for withdrawing or reducing relief by reason of a disposal or other event falling within sub-paragraph (6) above shall be made on the transferee.
- (8) In determining for the purposes of this paragraph any question whether any disposal relates to shares by reference to which any relief under this Part of this Schedule has been given, it shall be assumed, in relation to any disposal by any person of any eligible shares in a venture capital trust, that—
- (a) as between eligible shares acquired by the same person on different days, those acquired on an earlier day are disposed of by that person before those acquired on a later day; and

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(b) as between eligible shares acquired by the same person on the same day, those by reference to which relief under this Part of this Schedule has been given are disposed of by that person only after he has disposed of any other eligible shares acquired by him on that day.

(9) Where—

- (a) the approval of any company as a venture capital trust is withdrawn, and
  - (b) the withdrawal of the approval is not one to which section 842AA(8) applies,
- any person who, at the time when the withdrawal takes effect, is holding any shares by reference to which relief under this Part of this Schedule has been given shall be deemed for the purposes of this paragraph to have disposed of those shares immediately before that time and otherwise than by way of a bargain made at arm's length.

*Assessment on withdrawal or reduction of relief*

- 4
- (1) Any relief given under this Part of this Schedule which is subsequently found not to have been due shall be withdrawn by the making of an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given.
  - (2) An assessment for withdrawing or reducing relief in pursuance of paragraph 3 above shall also be made as an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given.
  - (3) No assessment for withdrawing or reducing relief given by reference to shares issued to any person shall be made by reason of any event occurring after his death.

*Provision of information*

- 5
- (1) Where an event occurs by reason of which any relief under this Part of this Schedule falls to be withdrawn or reduced, the individual to whom the relief was given shall, within 60 days of his coming to know of the event, give a notice to the inspector containing particulars of the event.
  - (2) If the inspector has reason to believe that a person has not given a notice which he is required to give under sub-paragraph (1) above in respect of any event, the inspector may by notice require that person to furnish him within such time (not being less than 60 days) as may be specified in the notice with such information relating to the event as the inspector may reasonably require for the purposes of this Part of this Schedule.
  - (3) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a venture capital trust that relief given by reference to a particular number or proportion of its shares has been given or claimed under this Part of this Schedule.

*Interpretation of Part I*

- 6
- (1) In this Part of this Schedule “eligible shares”, in relation to a company which is a venture capital trust, means new ordinary shares in that trust which, throughout the period of five years beginning with the date on which they are issued, carry no present or future preferential right to dividends or to a company's assets on its winding up and no present or future preferential right to be redeemed.

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- (2) In this Part of this Schedule “ordinary shares”, in relation to a company, means shares forming part of a company’s ordinary share capital.
- (3) In this Part of this Schedule references to a disposal of shares shall include references to a disposal of an interest or right in or over the shares.

## PART II

### RELIEF ON DISTRIBUTIONS

- 7
- (1) A relevant distribution of a venture capital trust shall not be regarded as income for any income tax purposes if the person beneficially entitled to it is a qualifying investor.
  - (2) For the purposes of this paragraph a person is a qualifying investor, in relation to any distribution, if he is an individual who has attained the age of eighteen years and is beneficially entitled to the distribution—
    - (a) as the person who himself holds the shares in respect of which the distribution is made, or
    - (b) as a person with such a beneficial entitlement to the shares as derives from their being held for him, or for his benefit, by a nominee of his.
  - (3) In this paragraph “relevant distribution”, in relation to a company which is a venture capital trust, means any distribution which—
    - (a) consists in a dividend (including a capital dividend) which is paid in respect of any ordinary shares in that company which—
      - (i) were acquired by the person to whom the distribution is made at a time when the company was such a trust, and
      - (ii) are not shares acquired in excess of the permitted maximum for any year of assessment;
    - and
    - (b) is not a dividend paid in respect of profits or gains arising or accruing in any accounting period ending at a time when the company was not such a trust.

#### *Meaning of “permitted maximum”*

- 8
- (1) For the purposes of this Part of this Schedule shares in a venture capital trust shall be treated, in relation to any individual, as acquired in excess of the permitted maximum for any year of assessment to the extent that the value of the shares comprised in the relevant acquisitions of that individual for that year exceeds £100,000.
  - (2) The reference in sub-paragraph (1) above to the relevant acquisitions of an individual for a year of assessment is a reference to all shares which—
    - (a) are acquired in that year of assessment by that individual or any nominee of his;
    - (b) are ordinary shares in a company which is a venture capital trust at the time of their acquisition; and
    - (c) are shares so acquired for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.
  - (3) Sub-paragraph (4) below applies where—

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- (a) any ordinary shares in a venture capital trust (“the new shares”) are acquired by any individual in circumstances in which they are required for the purposes of the 1992 Act to be treated as the same assets as any other shares; and
  - (b) the other shares consist of or include any ordinary shares in a venture capital trust that were, or are treated as, acquired otherwise than in excess of the permitted maximum for any year of assessment.
- (4) Where this sub-paragraph applies—
- (a) the value of the new shares shall be disregarded in determining whether any other shares acquired in the same year of assessment as the new shares are acquired in excess of the permitted maximum for that year; and
  - (b) the new shares or, as the case may be, an appropriate proportion of them shall be treated as themselves acquired otherwise than in excess of the permitted maximum.
- (5) For the purposes of this paragraph the value of any shares acquired by or on behalf of any individual shall be taken to be their market value (within the meaning of the 1992 Act) at the time of their acquisition.
- (6) Where any shares in a venture capital trust are acquired in excess of the permitted maximum for any year of assessment, the shares representing the excess shall be identified for the purposes of this Part of this Schedule—
- (a) by treating shares acquired later in the year as comprised in the excess before those acquired earlier in the year;
  - (b) by treating shares of different descriptions acquired on the same day as acquired within the permitted maximum in the same proportions as are borne by the respective values of the shares comprised in the acquisitions of each description to the total value of all the shares in the trust acquired on that day; and
  - (c) by applying the rules in section 151A(4) and (5) of the 1992 Act for determining the shares to which any disposal of shares in the trust relates (even one which is not a disposal for the purposes of that Act).

#### *Interpretation of Part II*

- 9 (1) In this Part of this Schedule “ordinary shares”, in relation to a company, means shares forming part of the company’s ordinary share capital.
- (2) In this Part of this Schedule “nominee”, in relation to any individual, includes the trustees of a bare trust of which that individual is the only beneficiary.