



Income Tax Act 2007

2007 CHAPTER 3

PART 6

VENTURE CAPITAL TRUSTS

CHAPTER 3

VCT APPROVALS

Supplementary

283 Time as from which VCT approval has effect

- (1) A VCT approval has effect as from the time specified in the approval.
- (2) That time, if it falls before the time when the VCT approval is given, must be no earlier than the time when the application was made.
- (3) If the Commissioners for Her Majesty's Revenue and Customs give a VCT approval, they may stipulate that the approval is to have effect as from the time when the application for the approval was made or any subsequent time.

284 Power to make regulations as to procedure

[^{F1}(1) Regulations under section 272 may make provision—

- (a) as to the making of applications for VCT approvals and otherwise as to the procedure to be followed in relation to any such applications and the giving of such approvals,
[for and in connection with the making by a company of an application to the Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") for relief in respect of a breach (including a future breach) of the conditions for its VCT approval to continue in force,]
^{F2}(aa)

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- (b) as to the procedure to be followed in connection with the withdrawal of VCT approvals,
- (c) as to the obligations of a company which is a VCT if it should appear to the company
 - [^{F3}(i) that the conditions for its VCT approval to continue in force are no longer met, or
 - (ii) that it is likely that those conditions will cease to be met,]
- (d) as to the accounts, records, returns and other information to be kept, and provided or otherwise made available to the Commissioners ^{F4}..., by companies which are or have been VCTs and by persons [^{F5}(including nominees)] who hold or have held shares in such companies, and
- (e) as to the persons liable to account for any tax becoming due where a VCT approval is withdrawn.]

[^{F6}(2) In subsection (1)(aa), the reference to relief in respect of a breach of the conditions mentioned there is to a determination by the Commissioners that they will not exercise their power to withdraw the company's VCT approval by reason of the breach for such period as they may determine (and subject to such conditions as they may determine).

- (3) The provision that may be made by virtue of subsection (1)(aa) includes—
 - (a) provision as to the procedure to be followed in relation to applications and determinations,
 - (b) provision as to the grounds on which applications may be made or determined, and
 - (c) provision conferring a discretion to be exercised by the Commissioners.]

Textual Amendments

- F1** S. 284(1): s. 284 renumbered as s. 284(1) (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 para. 21\(1\)](#)
- F2** S. 284(1)(aa) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 para. 21\(1\)\(a\)](#)
- F3** Words in s. 284(1)(c) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 para. 21\(1\)\(b\)](#)
- F4** Words in s. 284(1)(d) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 para. 21\(1\)\(c\)](#), [Sch. 27 Pt. 2\(16\)](#)
- F5** Words in s. 284(1)(d) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 10 para. 5](#)
- F6** S. 284(2)(3) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 16 para. 21\(2\)](#)

285 Interpretation of Chapter

- (1) Chapter 4 has effect for interpreting references in this Chapter to a “qualifying holding”.
- (2) In this Chapter and the following Chapters of this Part “securities”, in relation to a company, includes any liability of the company in respect of a loan ^{F7}..., except that it does not include—
 - (a) any liability of the company in respect of a loan which has been made to the company on terms which allow any person to require—
 - (i) the loan to be repaid, or
 - (ii) any stock or security relating to the loan to be re-purchased or redeemed,

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within the period of 5 years from the making of the loan or, as the case may be, the issue of the stock or security, or

- (b) any stock or security relating to a loan which has been made to the company on terms which allow any person to require the loan to be repaid, or the stock or security to be re-purchased or redeemed, within that period [^{F8}, or
- (c) any liability of the company in respect of a loan to which subsection (2A) applies that has been made to the company.]

But see sections 317(4) and 328(2).

[^{F9}(2A) This subsection applies to a loan if—

- (a) the return on the loan represents more than a commercial rate of return, or
- (b) the loan is made on terms which grant to a person or allow a person to acquire—
 - (i) any security or preferential rights in relation to assets of the company, or
 - (ii) the ability to control the company.

In sub-paragraph (ii) “control” has the meaning given by sections 450 and 451 of CTA 2010.

(2B) The return on a loan is not to be treated as representing more than a commercial rate for the purposes of subsection (2A)(a) if—

- (a) the return on the loan during the period of 5 years from the making of the loan does not exceed 50% of the amount lent, and
- (b) the total return on the loan does not exceed—

$$N \times A \times 10 \%$$

where—

N is the number of years (including any fraction) in the term of the loan;

A is the amount lent or, in a case where some of the loan is repaid during the term of the loan, the average amount outstanding during that term.

(2C) The Treasury may by regulations substitute a different figure for a figure that is at any time specified in subsection (2B)(a) or (b).

(2D) In subsections (2A)(a) and (2B) “return” means interest, fees, charges and other amounts payable in respect of the loan.

(2E) Where it is to any extent not known, before the end of the term of a loan, what amounts will be payable in respect of the loan—

- (a) subsections (2A)(a) and (2B) apply, until the relevant matters are ascertained, on the basis of what amounts can reasonably be expected to be payable;
- (b) when those matters are ascertained, any necessary adjustments must be made by making or amending assessments or by repayment or discharge of tax (regardless of any limitation on the time within which assessments or amendments may be made).]

[^{F10}(3A) For the purposes of this Chapter, shares in a company are “eligible” unless they carry—

- (a) a present or future preferential right to dividends that is within subsection (3B),

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- (b) a present or future preferential right to the company's assets on its winding up, or
 - (c) a present or future right to be redeemed.
- (3B) A preferential right to dividends carried by a share in a company is within this subsection if—
- (a) the amount of any dividends payable pursuant to the right, or the date or dates on which they are payable, depend to any extent on a decision of the company, the holder of the share or any other person, or
 - (b) the amount of any dividends that become payable at any time pursuant to the right includes any amount that became payable at any earlier time pursuant to the right, but has not been paid.]
- (4) Any reference in this Chapter to a company's investments is taken to include, so far as it would not otherwise do so—
- (a) money in the company's possession, and
 - (b) any sum owed to the company by another person if the company has account-holder's rights over that sum.
- (5) For the purposes of subsection (4)(b) a company has “account-holder's rights” over a sum owed to the company if—
- (a) the company has a right (whether or not the exercise of the right is subject to conditions) to require the other person to pay out the sum, or amounts out of the sum, to the company or at the company's direction, and
 - (b) the sum is owed to the company—
 - (i) as a result of amounts having been paid to the other person by or for the company, or
 - (ii) as a result of the other person having identified a sum in respect of which the company may exercise such a right.
- (6) Subsection (5) does not have effect to cause a company's investments to be taken to include anything to which the company is not beneficially entitled, but for this purpose a company is taken to be beneficially entitled to—
- (a) sums subscribed for shares issued by it, and
 - (b) anything to which it is entitled that (directly or indirectly) represents such sums.

Textual Amendments

- F7** Words in s. 285(2) omitted (15.3.2018) by virtue of [Finance Act 2018 \(c. 3\)](#), [Sch. 5 paras. 7\(2\)\(a\)](#), 13; [S.I. 2018/931](#), [reg. 4\(d\)](#) (with [reg. 5](#))
- F8** S. 285(2)(c) and word inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [Sch. 5 paras. 7\(2\)\(b\)](#), 13; [S.I. 2018/931](#), [reg. 4\(d\)](#) (with [reg. 5](#))
- F9** S. 285(2A)-(2E) inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [Sch. 5 paras. 7\(3\)](#), 13; [S.I. 2018/931](#), [reg. 4\(d\)](#) (with [reg. 5](#))
- F10** S. 285(3A)(3B) substituted (6.4.2011) for s. 285(3) (with effect in accordance with Sch. 2 paras. 6, 8 of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 2 para. 2\(6\)](#); [S.I. 2011/662](#), [art. 2](#)

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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.)