



Corporation Tax Act 2010

2010 CHAPTER 4

PART 7

COMMUNITY INVESTMENT TAX RELIEF

CHAPTER 6

SUPPLEMENTARY AND GENERAL

Alternative finance arrangements

256 Meaning of “loan” and “interest”

(1) In this Part—

- (a) references to a “loan” include references to alternative finance arrangements, and
- (b) references to “interest” include references to alternative finance return.

(2) In subsection (1)—

“alternative finance arrangements” means arrangements to which any of the following applies—

- (a) section 503 of CTA 2009 (purchase and resale arrangements),
- (b) section 505 of that Act (deposit arrangements),
- (c) section 506 of that Act (profit share agency arrangements), and

“alternative finance return” has the meaning given by section 511 and 513(1) and (2) of that Act.

(3) Subsection (1) needs to be read with—

- (a) section 257, in the case of arrangements to which section 503 of CTA 2009 applies,
- (b) section 258, in the case of arrangements to which section 505 of that Act applies, and

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- (c) section 259, in the case of arrangements to which section 506 of that Act applies.

257 Purchase and resale arrangements

- (1) This section applies if, under arrangements to which section 503 of CTA 2009 applies, a person (“the first purchaser”) purchases an asset that is sold to another person (“the second purchaser”).
- (2) This Part has effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The first purchaser is treated as making a loan to the second purchaser.
- (4) The amount of the loan is treated as being equal to the first purchase price.
- (5) If the arrangements provide that the first purchaser will transfer ownership of the asset to the second purchaser in instalments—
 - (a) references to the loan being drawn down over a period of time include references to the asset being transferred to the second purchaser in instalments,
 - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is transferred to the second purchaser, and
 - (c) references to the amount drawn down at a given date include references to the value of the instalments transferred at that date.
- (6) In calculating the amount of capital outstanding on the loan, each payment of the second purchase price (or part of the second purchase price), as reduced by any amount of alternative finance return (within the meaning of Chapter 6 of Part 6 of CTA 2009) included within each payment, is treated as repayment of the loan capital.
- (7) References to the beneficial owner of the loan include references to the person beneficially entitled to payment of the second purchase price.
- (8) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive payment of the whole or any part of the outstanding second purchase price.
- (9) If arrangements to which section 503 of CTA 2009 applies are, by virtue of this section, qualifying investments under Chapter 2 of this Part, paragraph (f) of section 249(1) above is to be ignored in relation to the arrangements concerned.
- (10) In this section “the first purchase price” and “the second purchase price” have the same meaning as in section 503 of CTA 2009.

258 Deposit arrangements

- (1) This section applies if, under arrangements to which section 505 of CTA 2009 applies, a person (“the depositor”) deposits money with a financial institution.
- (2) This Part has effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The depositor is treated as making a loan to the financial institution.

- (4) The amount of the loan is treated as being equal to the money deposited under the arrangements.
- (5) If the arrangements provide that the depositor will deposit a sum of money with the financial institution in instalments—
 - (a) references to the loan being drawn down over a period of time include references to the depositor depositing a sum of money with the financial institution in instalments,
 - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is deposited with the financial institution, and
 - (c) references to the amount drawn down at a given date include references to the value of the instalments deposited with the financial institution at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable deposit.
- (7) References to any repayment of the loan include references to any repayment of the deposit.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the deposit.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the deposit.
- (10) In this section “financial institution” has the same meaning as in Chapter 6 of Part 6 of CTA 2009 (see section 502 of that Act).

259 Profit share agency arrangements

- (1) This section applies if, under arrangements to which section 506 of CTA 2009 applies, a person (“the principal”) appoints a financial institution as agent.
- (2) This Part has effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The principal is treated as making a loan to the agent.
- (4) The amount of the loan is treated as being equal to the money provided by the principal to the agent under the arrangements.
- (5) If the arrangements provide that the principal will provide a sum of money to the agent in instalments—
 - (a) references to the loan being drawn down over a period of time include references to the principal providing a sum of money to the agent in instalments,
 - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is provided to the agent, and
 - (c) references to the amount drawn down at a given date include references to the value of the instalments provided to the agent at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable money provided to the agent.

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- (7) References to any repayment of the loan include references to any repayment of the money provided to the agent.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the money provided to the agent.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the money provided to the agent.
- (10) In subsection (1) “financial institution” has the same meaning as in Chapter 6 of Part 6 of CTA 2009 (see section 502 of that Act).

Miscellaneous

260 Information to be provided by the investor

- (1) If—
 - (a) the investor has obtained CITR in respect of the investment, and
 - (b) an event occurs because of which CITR attributable to the investment in respect of any accounting period falls to be withdrawn or reduced by virtue of section 243, 244, 245 or 247,
 the investor must give an officer of Revenue and Customs a notice containing particulars of the event.
- (2) Subject to subsection (3), a notice under subsection (1) must be given not later than the end of the period of 12 months beginning with the end of the accounting period in which the event occurred.
- (3) If—
 - (a) the investor is required to give a notice as a result of the receipt of value by a person connected with the investor (see section 253), and
 - (b) the end of the period of 60 days beginning when the investor comes to know of that event is later than the final notice date under subsection (2),
 the notice must be given before the end of that 60 day period.

261 Disclosure

- (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise prevents the disclosure of information—
 - (a) by the Secretary of State to an officer of Revenue and Customs for the purpose of assisting Her Majesty’s Revenue and Customs to discharge their functions under the Corporation Tax Acts so far as relating to matters arising under this Part, or
 - (b) by an officer of Revenue and Customs to the Secretary of State for the purpose of assisting the Secretary of State to discharge the Secretary of State’s functions in connection with this Part.
- (2) Information obtained by such disclosure is not to be further disclosed except for the purposes of legal proceedings arising out of the functions referred to.

262 Nominees

- (1) For the purposes of this Part—
 - (a) loans made by or to, or disposed of by, a nominee for a person are treated as made by or to, or disposed of by, that person, and
 - (b) securities or shares subscribed for by, issued to, acquired or held by or disposed of by a nominee for a person are treated as subscribed for by, issued to, acquired or held by or disposed of by that person.
- (2) For the purposes of subsection (1) references to things done by or to a nominee for a person include things done by or to a bare trustee for a person.

263 Application for postponement of tax pending appeal

No application may be made under section 55(3) or (4) of TMA 1970 (application for postponement of payment of tax pending appeal) on the ground that a company is eligible for CITR unless a claim for the CITR has been duly made by the company under this Part.

264 Identification of securities or shares on a disposal

- (1) This section applies for the purpose of identifying the securities or shares disposed of in any case where—
 - (a) the investor disposes of part of a holding of securities or shares (“the holding”), and
 - (b) the holding includes securities or shares to which CITR is attributable in respect of one or more accounting periods that have been held continuously by the investor from the time they were issued until the disposal.
- (2) Any disposal by the investor of securities or shares included in the holding which have been acquired by the investor on different days is treated as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (3) If there is a disposal by the investor of securities or shares included in the holding which have been acquired by the investor on the same day, any of those securities or shares—
 - (a) to which CITR is attributable, and
 - (b) which have been held by the investor continuously from the time they were issued until the time of disposal,are treated as disposed of after any other securities or shares included in the holding which were acquired by the investor on that day.
- (4) For the purposes of this section a holding of securities is any number of securities of a company which—
 - (a) carry the same rights,
 - (b) were issued under the same terms, and
 - (c) are held by the investor in the same capacity.

It does not matter for this purpose that the number of the securities grows or diminishes as securities carrying those rights and issued under those terms are acquired or disposed of.

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(5) For the purposes of this section a holding of shares is any number of shares in a company which—

- (a) are of the same class, and
- (b) are held by the investor in the same capacity.

It does not matter for this purpose that the number of the shares grows or diminishes as shares of that class are acquired or disposed of.

(6) In a case to which section 127 of TCGA 1992 (equation of original shares and new holding) applies, shares comprised in the new holding are to be treated for the purposes of subsections (2) and (3) as acquired when the original shares were acquired.

(7) In subsection (6)—

- (a) the reference to section 127 of TCGA 1992 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and
- (b) “original shares” and “new holding” have the same meaning as in section 127 of TCGA 1992 or (as the case may be) that section as applied by virtue of the enactment in question.

Definitions

265 Meaning of “issue of securities or shares”

(1) In this Part—

- (a) references (however expressed) to an issue of securities of any body are to such securities of that body as carry the same rights and are issued under the same terms and on the same day, and
- (b) references (however expressed) to an issue of shares in any body are to such shares in that body as are of the same class and issued on the same day.

(2) In this Part references (however expressed) to an issue of securities of or shares in a body to a company are to such of the securities or shares in an issue of securities of or shares in that body as are issued to that company in one capacity.

266 Meaning of “disposal”

(1) Subject to subsection (2), in this Part “disposal” is read in accordance with TCGA 1992, and related expressions are read accordingly.

(2) An investor is treated as disposing of any securities or shares which but for section 151BC(1) of TCGA 1992 the investor—

- (a) would be treated as exchanging for other securities or shares by virtue of section 136 of that Act, or
- (b) would be so treated but for section 137(1) of that Act (which restricts section 136 to genuine reconstructions).

267 Construction of references to being “held continuously”

(1) This section applies if for the purposes of this Part it becomes necessary to determine whether the investor has held the investment (or any part of it) continuously throughout any period.

- (2) The investor is not treated as having held the investment (or any part of it) continuously throughout a period if the investor—
- (a) is treated, under any provision of TCGA 1992, as having disposed of and immediately re-acquired the investment (or part) at any time during the period, or
 - (b) is treated as having disposed of the investment (or part) at any such time, by virtue of section 266(2) above.

268 Meaning of “associate”

- (1) In this Part “associate”, in relation to a person, means—
- (a) any relative or partner of that person,
 - (b) the trustee or trustees of any settlement in relation to which that person, or any relative of that person (living or dead), is or was a settlor, and
 - (c) if that person has an interest in any shares or obligations of a company which are subject to any trust or are part of the estate of a deceased person—
 - (i) the trustee or trustees of the settlement concerned or, as the case may be, the personal representatives of the deceased, and
 - (ii) if that person is a company, any other company which has an interest in those shares or obligations.
- (2) In subsection (1)(a) and (b) “relative” means spouse or civil partner, ancestor or lineal descendant.
- (3) In subsection (1)(b) “settlor” and “settlement” have the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).

269 Minor definitions etc

- (1) In this Part—
- “body” includes an unincorporated association, and
 - “bonus shares” means shares which are issued otherwise than for payment (whether in cash or otherwise).
- (2) For the purposes of this Part shares in a company are not treated as being of the same class unless they would be so treated if they were—
- (a) included in the official UK list, and
 - (b) admitted to trading on the London Stock Exchange.
- (3) For the purposes of this Part the market value at any time of any asset is the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it.
- (4) In this Part—
- (a) references to CITR obtained by the investor in respect of any investment (or part of an investment) include references to CITR obtained by the investor in respect of that investment (or part) at any time after the investor has disposed of it, and
 - (b) references to the withdrawal or reduction of CITR obtained by the investor in respect of the investment (or any part of it) include references to the

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withdrawal or reduction of CITR obtained in respect of that investment (or part) at any such time.

- (5) In the case of any condition that cannot be met until a future date—
- (a) references in this Part to a condition being met for the time being are to nothing having occurred to prevent its being met, and
 - (b) references to its continuing to be met are to nothing occurring to prevent its being met.