
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, Paragraph 9. (See end of Document for details)

SCHEDULES

SCHEDULE 7

ENTERPRISE INVESTMENT SCHEME

PART 1

ENTERPRISE INVESTMENT SCHEME

No disqualifying arrangements requirement

9 After section 178 insert—

“178A The no disqualifying arrangements requirement

- (1) The relevant shares must not be issued, nor any money raised by the issue employed, in consequence or anticipation of, or otherwise in connection with, disqualifying arrangements.
- (2) Arrangements are “disqualifying arrangements” if—
 - (a) the main purpose, or one of the main purposes, of the arrangements is to secure—
 - (i) that a qualifying business activity is or will be carried on by the issuing company or a qualifying 90% subsidiary of that company, and
 - (ii) that one or more persons (whether or not including any party to the arrangements) may obtain relevant tax relief in respect of shares issued by the issuing company which raise money for the purposes of that activity or that such shares may comprise part of the qualifying holdings of a VCT,
 - (b) that activity is the relevant qualifying business activity, and
 - (c) one or both of conditions A and B are met.
- (3) Condition A is that, as a (direct or indirect) result of the money raised by the issue of the relevant shares being employed as required by section 175, an amount representing the whole or the majority of the amount raised is, in the course of the arrangements, paid to or for the benefit of a relevant person or relevant persons.
- (4) Condition B is that, in the absence of the arrangements, it would have been reasonable to expect that the whole or greater part of the component activities of the relevant qualifying business activity would have been carried on as part of another business by a relevant person or relevant persons.
- (5) For the purposes of this section it is immaterial whether the issuing company is a party to the arrangements.

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(6) In this section—

“component activities” means—

- (a) if the relevant qualifying business activity is activity A (see section 179(2)), the carrying on of a qualifying trade or preparing to carry on such a trade, which constitutes that activity, and
- (b) if the relevant qualifying business activity is activity B (see section 179(4)), the carrying on of research and development which constitutes that activity;

“qualifying holdings”, in relation to the issuing company, is to be construed in accordance with section 286 (VCTs: qualifying holdings);

“relevant person” means a person who is a party to the arrangements or a person connected with such a party;

“relevant qualifying business activity” means the activity for the purposes of which the issue of the relevant shares raised money;

“relevant tax relief”, in respect of shares, means one or more of the following—

- (a) EIS relief in respect of the shares;
- (b) SEIS relief under Part 5A in respect of the shares;
- (c) relief under Chapter 6 of Part 4 (losses on disposal of shares) in respect of the shares;
- (d) relief under section 150A or 150E of TCGA 1992 (enterprise investment scheme) in respect of the shares;
- (e) relief under Schedule 5B to that Act (enterprise investment scheme: reinvestment) in consequence of which deferral relief is attributable to the shares (see paragraph 19(2) of that Schedule);
- (f) relief under Schedule 5BB to that Act (seed enterprise investment scheme: re-investment) in consequence of which SEIS re-investment relief is attributable to the shares (see paragraph 4 of that Schedule).”

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