



Finance Act 2007

2007 CHAPTER 11

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Other income tax measures

61 Enterprise management incentives: excluded activities

- (1) In Part 3 of Schedule 5 to ITEPA 2003 (enterprise management incentives: qualifying companies), in paragraph 19 (excluded activities: receipt of royalties or licence fees)—
- (a) in sub-paragraph (4), for paragraphs (a) and (b) substitute—
 - “(a) by the relevant company, or
 - (b) by a company which was a qualifying subsidiary of the relevant company throughout a period during which it created the whole or greater part (in terms of value) of the intangible asset.”, and
 - (b) after sub-paragraph (7) insert—
 - “(8) If—
 - (a) the relevant company acquired all the shares (“old shares”) in another company (“the old company”) at a time when the only shares issued in the relevant company were subscriber shares, and
 - (b) the consideration for the old shares consisted wholly of the issue of shares in the relevant company,references in sub-paragraph (4) to the relevant company include the old company.”
- (2) The amendments made by subsection (1) have effect in relation to options granted on or after 6th April 2007.

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- (3) They also have effect in relation to a qualifying option within subsection (4), for the purpose of determining at any time on or after that date whether an activity is an excluded activity.
- (4) An option is within this subsection if it was granted before 6th April 2007 and, immediately before that date—
 - (a) it had not been exercised, and
 - (b) no disqualifying event had occurred in relation to it.
- (5) Subsection (6) applies in respect of an option within subsection (4) if—
 - (a) immediately before 6th April 2007—
 - (i) the right to exploit an intangible asset (“the asset”) was vested in the relevant company or a subsidiary of it (in either case, alone or jointly with others), and
 - (ii) the asset was a relevant intangible asset,
 - (b) at any time on or after that date, an activity carried on by the relevant company or a subsidiary of it would be an excluded activity by reason only of the receipt of royalties or licence fees attributable to the exploitation of the asset, and
 - (c) the activity would not be an excluded activity if the amendments made by subsection (1) had not been made.
- (6) The activity is to be treated, in relation to the option, as not being an excluded activity at that time.

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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. 993 modified by [2016 c. 24 s. 118\(2\)](#)
- Sch. 24 para. 12(5)(za) inserted by [2015 c. 11 Sch. 20 para. 6\(a\)](#)
- Sch. 24 para. 21A(A1) inserted by [2015 c. 11 Sch. 20 para. 7\(2\)](#)
- Sch. 24 para. 4A(A1)(1) substituted for Sch. 24 para. 4A(1) by [2015 c. 11 Sch. 20 para. 3\(2\)](#)
- Sch. 24 para. 28(fa)(ia) words substituted by [2024 c. 3 Sch. 1 para. 11](#)