



Income Tax Act 2007

2007 CHAPTER 3

[^{F1}PART 5B

TAX RELIEF FOR SOCIAL INVESTMENTS

[^{F1}CHAPTER 3

ELIGIBILITY: CONDITIONS RELATING TO THE INVESTOR AND THE INVESTMENT

Textual Amendments

F1 Pt. 5B inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 11 para. 1](#)

257L Investment to be in new shares or new qualifying debt investments

- (1) At all times during the shorter applicable period, the investment must be in—
- (a) shares that meet conditions A and B and are issued to the investor by the social enterprise in return for the amount invested, or
 - (b) qualifying debt investments of which the investor is the holder in return for advancing the amount invested to the social enterprise.
- (2) Condition A is that the shares must carry none of the following—
- (a) a right to a return which, or any part of which, is a fixed amount;
 - (b) a right to a return which, or any part of which, is at a fixed rate;
 - (c) a right to a return which, or any part of which, is otherwise fixed by reference to the amount invested;
 - (d) a right to a return which, or any part of which, is fixed by reference to some other factor that is not contingent on successful financial performance by the social enterprise;
 - (e) a right to a return at a rate greater than a reasonable commercial rate.

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- (3) Condition B is that, for the purpose of determining the amounts due in respect of the shares to their holder in the event of the winding-up of the social enterprise—
- (a) those amounts rank after all debts of the social enterprise except any due to holders of qualifying debt investments in the social enterprise in respect of their qualifying debt investments, and
 - (b) the shares do not rank above any other shares in the social enterprise.
- (4) In this Part “qualifying debt investments”, in relation to the social enterprise, means any debentures of the social enterprise in respect of which the following conditions are met—
- (a) neither the principal of the debt concerned, nor any return on that, is charged on any assets,
 - (b) the rate of any such return is not greater than a reasonable commercial rate of return, and
 - (c) in the event of the winding-up of the social enterprise and so far as the law allows, any sums due in respect of the debt (whether principal or return)—
 - (i) are subordinated to all other debts of the social enterprise except sums due in the case of other unsecured debentures of the social enterprise which rank equally,
 - (ii) rank equally, if there are shares in the social enterprise and they all rank equally among themselves, with amounts due to share-holders in respect of their shares, and
 - (iii) rank equally, if there are shares in the social enterprise and they do not all rank equally, with amounts due in respect of their shares to the holders of shares that do not rank above any other shares.
- (5) The condition in subsection (3)(a) or (4)(c)(i) is met even if the sums concerned do not rank after debts which are postponed—
- (a) by rules under section 411 of the Insolvency Act 1986, or
 - (b) by or under any other enactment.
- (6) For the purposes of subsection (4) “debenture” includes any instrument creating or acknowledging indebtedness.

257LA Condition that the amount invested must have been paid over

- (1) So far as the investment is in shares—
 - (a) the shares must be subscribed for wholly in cash, and
 - (b) must be fully paid up at the time they are issued.
- (2) If the investment, so far as it is in qualifying debt investments, involves making—
 - (a) the only advance covered by the debenture or debentures concerned, or
 - (b) one of multiple advances covered by the debenture or debentures concerned,
 the full amount of that advance must have been advanced wholly in cash by the time the investment is made.
- (3) For the purposes of this section—
 - (a) shares are not fully paid up, or
 - (b) the full nominal amount of qualifying debt investments has not been advanced,

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if there is any undertaking to pay cash to any person at a future time in respect of the acquisition of the shares or investments.

- (4) For the purposes of subsection (2) “debenture” includes any instrument creating or acknowledging indebtedness.

257LB The no pre-arranged exits requirements

- (1) There must not at any time in the shorter applicable period be any arrangements in existence for the investment to be redeemed, repaid, repurchased, exchanged or otherwise disposed of in that period.
- (2) The issuing arrangements for the investment must not include—
- (a) arrangements for or with a view to the cessation of any trade which is being or is to be or may be carried on by the social enterprise or a person connected with the social enterprise, or
 - (b) arrangements for the disposal of, or of a substantial amount (in terms of value) of, the assets of the social enterprise or of a person connected with the social enterprise.
- (3) The arrangements referred to in subsection (2)(a) and (b) do not include any arrangements applicable only on the winding-up of a company except in a case where—
- (a) the issuing arrangements include arrangements for the company to be wound up, or
 - (b) the arrangements are applicable on the winding-up of the company otherwise than for genuine commercial reasons.
- (4) In this section “the issuing arrangements” means—
- (a) the arrangements under which the investor makes the investment, and
 - (b) any arrangements made before, and in relation to or in connection with, the making of the investment by the investor.
- (5) Subsections (2) to (4) do not apply if the social enterprise is an accredited social impact contractor.

257LC The no risk avoidance requirement

- (1) There must not at any time in the shorter applicable period be any arrangements in existence the main purpose or one of the main purposes of which is (by means of any insurance, indemnity, guarantee, hedging of risk or otherwise) to provide partial or complete protection for the investor against what would otherwise be the risks attached to making the investment.
- (2) The arrangements referred to in subsection (1) do not include any arrangements which are confined to the provision—
- (a) for the social enterprise itself, or
 - (b) if the social enterprise is a parent company that meets the trading requirement in section 257MJ(2)(c) or is a parent company that is an accredited social impact contractor—
 - (i) for the social enterprise itself,
 - (ii) for the social enterprise itself and one or more of its subsidiaries, or

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(iii) for one or more of the subsidiaries of the social enterprise, of any such protection against the risks arising in the course of carrying on its business as might reasonably be expected to be provided in normal commercial circumstances.

257LD The no linked loans requirement

- (1) No linked loan is to be made by any person, at any time in the longer applicable period, to the investor or an associate of the investor.
- (2) In this section “linked loan” means any loan which—
 - (a) would not have been made, or
 - (b) would not have been made on the same terms,
 if the investor had not made the investment, or had not been proposing to do so.
- (3) References in this section to the making by any person of a loan to the investor or an associate of the investor include—
 - (a) references to the giving by that person of any credit to the investor or any associate of the investor, and
 - (b) references to the assignment to that person of a debt due from the investor or any associate of the investor.

[^{F2}257LDA The existing investments requirement

- (1) If at the time immediately before the investment is made the investor holds any shares in or debentures of—
 - (a) the social enterprise, or
 - (b) a company which at that time is a qualifying subsidiary of the social enterprise,
 those shares or debentures must be risk finance investments or (in the case of shares) permitted subscriber shares.
- (2) A share or debenture is a “risk finance investment” for the purposes of this section if—
 - (a) it is a share that was issued to the investor, or a debenture of which the investor is the holder in return for advancing an amount, and
 - (b) at any time, a compliance statement under section 205, 257ED or 257PB is provided in respect of it or of shares or investments including it.
- (3) Subscriber shares are “permitted subscriber shares” for the purposes of this section if—
 - (a) they were issued to the investor and have been continuously held by the investor since they were issued, or
 - (b) they were acquired by the investor at a time when the company which issued them—
 - (i) had issued no shares other than subscriber shares, and
 - (ii) had not begun to carry on or make preparations for carrying on any trade or business.
- (4) In this section “debenture” is to be read in accordance with section 257L(6).]

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Textual Amendments

F2 S. 257LDA inserted (with effect in accordance with Sch. 1 para. 14(1)(2) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 1 para. 3**

257LE The no tax avoidance requirement

The investment must not be made as part of any arrangements the main purpose or one of the main purposes of which is the avoidance of tax.

^I_{F3} 257LEA The no disqualifying arrangements requirement

- (1) The investment must not be made, and money raised by the social enterprise from the making of the investment must not be employed,—
- (a) in consequence or anticipation of disqualifying arrangements, or
 - (b) 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 both that an activity is or will be carried on by the social enterprise or a 90% social subsidiary of the social enterprise and that—
 - (i) one or more persons (whether or not including any party to the arrangements) may obtain relevant tax relief in respect of a qualifying investment which raises money for the purposes of that activity, or
 - (ii) shares issued by the social enterprise which raise money for the purposes of that activity may comprise part of the qualifying holdings of a VCT,
 - (b) that activity is the relevant qualifying 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 investment being employed as required by section 257MM, 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 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 social enterprise is a party to the arrangements.
- (6) In this section—
- “90% social subsidiary” is to be read in accordance with section 257MV;
 - “component activities” means the carrying on of a qualifying trade or preparing to carry on such a trade, which constitutes the relevant qualifying activity;
 - a “qualifying investment” means—
 - (a) shares in the social enterprise, or
 - (b) a qualifying debt investment in the social enterprise (see section 257L);

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“qualifying holdings”, in relation to the social enterprise, 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 activity” means the qualifying trade or activity mentioned in section 257ML(1) for the purposes of which the investment raised money;

“relevant tax relief” has the meaning given by subsection (7).

(7) “Relevant tax relief”—

- (a) in relation to a qualifying debt investment, means SI relief in respect of that investment;
- (b) in relation to shares, means one or more of the following—
 - (i) SI relief in respect of the shares;
 - (ii) EIS relief (within the meaning of Part 5) in respect of the shares;
 - (iii) SEIS relief (within the meaning of Part 5A) in respect of the shares;
 - (iv) relief under Chapter 6 of Part 4 (losses on disposal of shares) in respect of the shares;
 - (v) relief under section 150A or 150E of TCGA 1992 (EIS and SEIS) in respect of the shares;
 - (vi) relief under Schedule 5B to that Act (EIS: reinvestment) in consequence of which deferral relief is attributable to the shares (see paragraph 19(2) of that Schedule);
 - (vii) relief under Schedule 5BB to that Act (SEIS: re-investment) in consequence of which SEIS re-investment relief is attributable to the shares (see paragraph 4 of that Schedule).]

Textual Amendments

- F3** S. 257LEA inserted (with effect in accordance with Sch. 1 para. 14(3)(4) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 1 para. 4**

257LF Restrictions on being an employee, partner or paid director

- (1) This section applies—
 - (a) to the investor, and
 - (b) to any individual who is an associate of the investor.
- (2) An individual to whom this section applies must not at any time in the longer applicable period be—
 - (a) an employee of—
 - (i) the social enterprise,
 - (ii) any subsidiary of the social enterprise,
 - (iii) a partner of the social enterprise, or
 - (iv) a partner of any subsidiary of the social enterprise,
 - (b) a partner of—
 - (i) the social enterprise, or
 - (ii) any subsidiary of the social enterprise,

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- (c) a trustee of—
 - (i) the social enterprise, or
 - (ii) any subsidiary of the social enterprise, or
 - (d) a remunerated director of—
 - (i) the social enterprise, or
 - (ii) a linked company.
- (3) In this section—
- “linked company” means—
 - (a) a subsidiary of the social enterprise,
 - (b) a company which is a partner of the social enterprise, or
 - (c) a company which is a partner of a subsidiary of the social enterprise;
 - “related person” means—
 - (a) the social enterprise,
 - (b) a person connected with the social enterprise,
 - (c) a linked company of which the individual is a director, or
 - (d) a person connected with such a company;
 - “subsidiary”, in relation to the social enterprise, means a company which at any time in the longer applicable period is a 51% subsidiary of the social enterprise (and such a company is therefore a subsidiary of the social enterprise for the purposes of this section even at times when it is not a 51% subsidiary of the social enterprise).
- (4) For the purposes of subsection (2)(d), an individual who is a director of the social enterprise or a linked company is “remunerated” if the individual (or a partnership of which the individual is a member)—
- (a) receives at any time in the longer applicable period a payment from a related person, or
 - (b) is entitled to receive a payment from a related person in respect of any time in the longer applicable period.
- (5) For the purposes of subsection (4) the following are ignored—
- (a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by the individual in the performance of the individual's duties as a director,
 - (b) any interest which represents no more than a reasonable commercial return on money lent to a related person,
 - (c) any dividend or other distribution which does not exceed a normal return on the investment,
 - (d) any payment for the supply of goods which does not exceed their market value,
 - (e) any payment of rent for any property occupied by a related person which does not exceed a reasonable and commercial rent for the property,
 - (f) any necessary and reasonable remuneration which—
 - (i) is paid for services, rendered to a related person in the course of a trade or profession, that are not secretarial services and are not managerial services and are not services of a kind provided by the person to whom they are rendered, and

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- (ii) is taken into account in calculating for tax purposes the profits of that trade or profession, and
- (g) if condition A is met and (where applicable) condition B is also met, any other reasonable remuneration (including any benefit or facility) received by the individual, or to which the individual is entitled, for services rendered by the individual—
 - (i) to the company (whether the social enterprise or a linked company) of which the individual is a director, and
 - (ii) in the individual's capacity as a director of that company.
- (6) Condition A is that the investor made the investment, or previously made another investment meeting the requirement in section 257L(1), at a time (“the qualifying time”) when—
 - (a) the requirements of this section and sections 257LG and 257LH (even if the three sections were not then in force) would have been met even if each other reference in the three sections to any time in the longer applicable period were a reference to any time before the qualifying time, and
 - (b) the investor had never been involved in carrying on (whether on the investor's own account or as a partner, director or employee) the whole or any part of the trade, business or profession carried on by the social enterprise or a subsidiary of the social enterprise.
- (7) Condition B is that—
 - (a) the investment did not meet condition A (but a previous investment did), and
 - (b) the investment was made before the third anniversary of the date when the investor last made an investment in the social enterprise which met condition A.
- (8) References in this section to an individual in the individual's capacity as a director of a company include, if the individual is both a director and an employee of the company, references to the individual in the individual's capacity as an employee of the company but, apart from that, an individual who is both a director and an employee of a company is treated for the purposes of this section as a director, and not an employee, of the company.
- (9) In subsections (2), (4) and (5) “director” does not include a trustee of a charity that is a trust.

257LG The requirement not to be interested in capital etc of social enterprise

- (1) This section applies—
 - (a) to the investor, and
 - (b) to any individual who is an associate of the investor.
- (2) In this section “related company” means—
 - (a) the social enterprise, or
 - (b) a company which at any time in the longer applicable period is a 51% subsidiary of the social enterprise (and such a company is therefore a related company for the purposes of this section even at times when it is not a 51% subsidiary of the social enterprise).
- (3) There must not be any time in the longer applicable period when an individual to whom this section applies has control of a related company.

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- (4) There must not be any time in the longer applicable period when an individual to whom this section applies directly or indirectly possesses or is entitled to acquire—
- (a) more than 30% of the ordinary share capital of a related company,
 - (b) more than 30% of the loan capital of a related company, or
 - (c) more than 30% of the voting power in a related company.
- (5) For the purposes of subsections (3) and (4) ignore any shares in a related company held by the individual, or by an associate of the individual, at a time when that company—
- (a) has not issued any shares other than subscriber shares, and
 - (b) has not begun to carry on, or make preparations for carrying on, any trade or business.
- (6) For the purposes of this section, the loan capital of a company—
- (a) is treated as including any debt incurred by the company—
 - (i) for any money borrowed or capital assets acquired by the company,
 - (ii) for any right to receive income created in favour of the company, or
 - (iii) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium on it), and
 - (b) is treated as not including any debt incurred by the company by overdrawing an account with a person carrying on a business of banking if the debt arose in the ordinary course of that business.
- (7) For the purposes of this section—
- (a) an individual is treated as entitled to acquire anything which the individual is entitled to acquire at a future date or will at a future date be entitled to acquire, and
 - (b) there is attributed to any individual any rights or powers of any other person who is an associate of the individual.

257LH Requirement for no collusion with a non-qualifying investor

There must not at any time in the longer applicable period be any arrangements—

- (a) as part of which—
 - (i) the investor makes the investment, or
 - (ii) the investor, or an individual who is an associate of the investor, makes any other investment in the social enterprise,
- (b) which provide for a person to make an investment in a company other than the social enterprise, where that person is not the individual (“A”) who invests as mentioned in paragraph (a), and
- (c) to which there is a party (whether or not A) who is an individual in relation to whom not all of the requirements in sections 257LF and 257LG would be met if—
 - (i) references in those sections to the investor were read as references to that individual, and
 - (ii) references in those sections to the social enterprise were read as references to the company mentioned in paragraph (b).]

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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.)