



Income Tax Act 2007

2007 CHAPTER 3

[^{F1}PART 5B

TAX RELIEF FOR SOCIAL INVESTMENTS

CHAPTER 3

ELIGIBILITY: CONDITIONS RELATING TO THE INVESTOR AND THE INVESTMENT

[^{F1}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.
- (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

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- (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.]

Textual Amendments

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

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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.)