STATUTORY INSTRUMENTS

2018 No. 109

INCOME TAX

The Venture Capital Trust (Exchange of Shares and Securities) (Amendment) Regulations 2018

Made - - - -	*30th January 2018*
Laid before the House of Commons - - - -	*31st January 2018*
Coming into force - -	*22nd February 2018*

The Treasury, in exercise of the powers conferred by section 330(1A) and (3A) of the Income Tax Act 2007(**1**), make the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Venture Capital Trust (Exchange of Shares and Securities) (Amendment) Regulations 2018 and come into force on 22nd February 2018.

Amendment of the Venture Capital Trust (Exchange of Shares and Securities) Regulations 2002

2. The Venture Capital Trust (Exchange of Shares and Securities) Regulations 2002(**2**) are amended as follows.

Regulation 2 (interpretation)

3. In regulation 2(1), at the appropriate place, insert—

""non-qualifying exchange of shares or securities" has the meaning given by regulation 12;";

""regulation 3 exchange" means an exchange of shares or securities to which regulation 3 applies;".

(**1**) 2007 c. 3. Subsections (1A) and (3A) of section 330 were inserted by section 13 of the Finance (No. 2) Act 2017 (c. 32), which section also made further consequential amendments to section 330.
(**2**) S.I. 2002/2661.

Regulation 3 (scope of Regulations)

4. In regulation 3, for "These Regulations" substitute "Regulations 4 to 11" and amend the heading to "Scope of regulations 4 to 11".

Regulation 11 (apportionment)

5. In regulation 11(1), for "these Regulations" substitute "regulations 7 to 10".

Non-qualifying exchange of shares or securities

6. After regulation 11 (apportionment) insert—

"**Non-qualifying exchange of shares or securities**

12. An exchange of shares or securities held by a venture capital trust is a non-qualifying exchange where—

(a) the exchange is made for genuine commercial reasons and does not form part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax;

(b) the trust company receives, in respect of the old shares or old securities, new shares or new securities, with or without other consideration; and

(c) neither the old nor the new shares or securities meet the requirements of Chapter 4 of Part 6 of the Income Tax Act 2007.

Non-qualifying exchange of shares or securities for those in the same company

13.—(1) Paragraphs (2) and (3) apply if the non-qualifying exchange of shares or securities would have fallen within the case described in regulation 4 had the exchange been a regulation 3 exchange.

(2) The following paragraphs of regulation 7 are to be treated as applying to the non-qualifying exchange—

(a) paragraphs (2) to (4); and

(b) paragraphs (9) and (10).

(3) After paragraph (10) of regulation 7, the following paragraph is to be treated as added and as applying to the non-qualifying exchange—

"(11) Any new shares or securities are to be treated for the purposes of satisfying the conditions referred to in section 274(1) of the Income Tax Act 2007 as if they were the old shares or old securities for which they were exchanged but only for the period of 12 months, commencing with the earlier of the date or day provided by paragraph (10)(b).".

(4) For the purposes of paragraph (1), reference in regulation 4 to regulation 7 is to be treated as a reference only to the paragraphs of regulation 7 applied by paragraph (2).

Non-qualifying exchange of shares or securities for those in another company

14.—(1) Paragraphs (2) to (5) apply if the non-qualifying exchange of shares or securities would have fallen within the case described in regulation 5 had the exchange been a regulation 3 exchange.

(2) Subject to paragraphs (3) to (5), paragraphs (2), (3), (5) and (9) to (12) of regulation 8 are to be treated as applying to the non-qualifying exchange.

(3) Paragraph (9) of regulation 8 is to be treated as modified as follows—

(a) "other than paragraph 2, 6 or 7" is omitted;

(b) "meeting those requirements" is substituted by "if they were investments falling with section 274(3A) of the Income Tax Act 2007"; and

(c) in sub-paragraph (b)(ii)—

(i) for "3 years" is substituted "12 months"; and

(ii) for "5 years" is substituted "18 months".

(4) Paragraph (10) of regulation 8 is to be treated as modified as follows—

(a) after "there mentioned" there is added "as modified by regulation 14(3)"; and

(b) in each case, for "second anniversary of" is substituted "date which is 3 months after".

(5) In paragraph (12) of regulation 8, after "this regulation and regulation 9" there is to be treated as added ",as applied and modified by virtue of regulation 14 or 15, as the case may be,".

(6) For the purposes of paragraph (1), reference in regulation 5 to regulation 8 is to be treated as a reference only to the paragraphs of regulation 8 applied by paragraph (2), subject to the modifications in paragraphs (3) to (5).

Non-qualifying exchange of shares or securities where there is a scheme of reconstruction

15.—(1) Paragraphs (2) to (5) apply if the non-qualifying exchange of shares or securities would have fallen within the case described in regulation 6 had the exchange been a regulation 3 exchange.

(2) Subject to paragraphs (3) to (5), paragraphs (1) to (3), (5) and (9) to (11) of regulation 9 are to be treated as applying to the non-qualifying exchange.

(3) In paragraph (1) of regulation 9, for "a case described in regulation 6" there is to be treated as substituted "a non-qualifying exchange of shares or securities described in regulation 15(1)".

(4) Paragraph (9) of regulation 9 is to be treated as modified as follows—

(a) "other than paragraph 2, 6 or 7" is omitted;

(b) "meeting those requirements" is substituted by "if they were investments falling with section 274(3A) of the Income Tax Act 2007"; and

(c) in sub-paragraph (b)(ii)—

(i) for "3 years" is substituted "12 months"; and

(ii) for "5 years" is substituted "18 months".

(5) Paragraph (10) of regulation 9 is to be treated as modified as follows—

(a) after "there mentioned" there is added "as modified by regulation 15(3)"; and

(b) in each case, for "second anniversary of" is substituted "date which is 3 months after".

(6) For the purposes of paragraph (1), reference in regulation 6 to regulation 9 is to be treated as a reference only to the paragraphs of regulation 9 as applied by paragraph (2), subject to the modifications in paragraphs (3) to (5).