

Relief to companies on loans applied in acquiring interest in other companies. FA74 s33 and s 35(4) and (5); CTA76 s140(1) and Sch2 Ptl par43; FA96 s131(9)(a) 247.—(1) (a) In this section and in sections 248 and 249—

“control” shall be construed in accordance with section 432;

“material interest”, in relation to a company, means the beneficial ownership of, or the ability to control, directly or through the medium of a connected company or connected companies or by any other indirect means, more than 5 per cent of the ordinary share capital of the company.

(b) For the purposes of this section and sections 248 and 249, a company shall be regarded as connected with another company if it would be so regarded for the purposes of the Tax Acts by virtue of section 10 and if it is a company referred to in subsection (2)(a).

(2) This section shall apply to a loan to a company (1) referred to as “the investing company”) to defray money applied—

(a) in acquiring any part of the ordinary share capital of—

(i) a company which exists wholly or mainly for the purpose of carrying on a trade or trades or a company whose income consists wholly or mainly of profits or gains chargeable under Case V of Schedule D, or

(ii) a company whose business consists wholly or mainly of the holding of stocks, shares or securities of a company referred to in subparagraph (i),

(b) in lending to a company referred to in paragraph (a) money which is used wholly and exclusively for the purposes of the trade or business of the company or of a connected company, or

(c) in paying off another loan where relief could have been obtained under this section for interest on that other loan if it had not been paid off (on the assumption, if the loan was free of interest, that it carried interest).

(3) Relief shall be given in respect of any payment of the interest by the investing company on the loan if—

(a) when the interest is paid the investing company has a material interest in the company or in a connected company,

(b) during the period taken as a whole from the application of the proceeds of the loan until the interest was paid at least one director of the investing company was also a director of the company or of a connected company, and

(c) the investing company shows that in the period referred to in paragraph (b) it has not recovered any capital from the company or from a connected company apart from any amount taken into account under section

(4) Subsection (2) shall not apply to a loan unless it is made in connection with the application of the money and either on the occasion of its application or within what is in the circumstances a reasonable time from the application of the money, and that subsection shall not apply to a loan the proceeds of which are applied for some other purpose before being applied as described in that subsection.

(5) Interest eligible for relief under this section shall be deducted from or set off against the income of the borrower for the accounting period in which the interest is paid and tax shall be discharged or repaid accordingly, and such interest shall not be eligible for relief under any provision of the Tax Acts apart from this section.