

Specified individuals. FA84 s14A; FA95 s17(1)(d); FA97 s9(b) 494.—(1) An individual shall be a specified individual if he or she qualifies for relief in respect of a relevant investment and complies with this section.

(2) (a) Subject to paragraph (b), the individual, in each of the 3 years of assessment preceding the year of assessment which precedes the year of assessment in which that individual makes a relevant investment (being that individual's first such investment), shall not have been in receipt of income chargeable to tax otherwise than under—

(i) Schedule E, or

(ii) Case III of Schedule D in respect of profits or gains from an office or employment held or exercised outside the State,

in excess of the lesser of—

(I) the aggregate of the amounts, if any, of that individual's income chargeable to tax under Schedule E and under Case III of Schedule D in respect of the profits or gains referred to in subparagraph (ii), and

(II) £15,000.

(b) Paragraph (a) shall not apply to an individual who makes a subscription for eligible shares in a qualifying company which carries on or intends to carry on qualifying trading operations referred to in section 496 (2)(a)(iv).

(3) The individual shall throughout the relevant period possess at least 15 per cent of—

(a) as respects a subscription for eligible shares made before the 2nd day of June, 1995, the issued share capital, or

(b) as respects a subscription for eligible shares made on or after that date, the issued ordinary share capital,

of the company in which that individual makes a relevant investment.

(4) (a) For the purposes of paragraph (b) and subsections (5) and (6), “specified date”, in relation to a relevant investment in a company, means—

(i) where the investment consists of the subscription of only one amount for eligible shares, the date of that subscription, or

(ii) where that investment consists of the subscription of more than one amount for eligible shares, the date of the last such subscription.

(b) Subject to subsections (5) and (6), the individual at the specified date, in relation to that individual's first relevant investment in a company, or within the period of 12 months immediately preceding that date, either directly or indirectly, shall not possess or have possessed, or shall not be or have been entitled to acquire, more than 15 per cent of—

(i) the issued ordinary share capital,

(ii) the loan capital (5)) and the issued share capital, or

(iii) the voting power,

of any company other than—

(I) the company in which that individual makes that relevant investment, or

(II) a company to which subsection (5) applies.

(5) This subsection shall apply to a company which during a period of 5 years ending on the specified date in relation to an individual's first relevant investment in a company—

(a) was not entitled to any assets, other than cash on hands or a sum of money on deposit ) not exceeding £100,

(b) did not carry on a trade, profession, business or other activity including the making of investments, and

(c) did not pay charges on income within the meaning of section 243.

(6) (a) For the purposes of paragraph (b)—

(i) “accounting period” means an accounting period determined in accordance with section 27, and

(ii) a company shall be regarded as a company which carries on wholly or mainly trading operations referred to in paragraph (b)(i) only if in each of the 3 accounting periods referred to in paragraph (b)(ii) the total amount receivable from sales made or services rendered in the course of such trading operations is not less than 75 per cent of the total amount receivable by the company from all sales made and services rendered in the course of the trade.

(b) An individual shall not be regarded as failing to satisfy the requirements of subsection (4) merely by reason of the fact that the individual does not satisfy those requirements in relation to only one company (other than the company in which the individual makes his or her first relevant investment or a company to which subsection (5) applies)—

(i) which exists wholly or mainly for the purpose of carrying on trading operations other than trading operations consisting of dealing in shares, securities, land, currencies, futures or traded options, and

(ii) where the total amount receivable by that company from sales made and services rendered in the course of that company's trading operations did not exceed £100,000 in each of that company's 3 accounting periods immediately preceding the accounting period of that company in which the specified date occurs in relation to that individual's first relevant investment.

(7) An individual shall not be regarded as ceasing to comply with subsection (3) merely by reason of the fact that the company in which the individual makes a relevant investment is wound up, or dissolved without winding up, before the end of the relevant period but only if it is shown that the winding up or dissolution is for bona fide commercial reasons and is not part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.