

Relief to individuals on loans applied in acquiring interest in companies. FA74 s34 and s35(4) and (5); FA92 s14(4) 248.—(1) This section shall apply to a loan to an individual 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 purpose 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).

(2) Relief shall be given in respect of any payment of interest by the individual on the loan if—

(a) when the interest is paid the individual 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, the individual has worked for the greater part of his or her time in the actual management or conduct of the business of the company or of a connected company, and

(c) the individual shows that in the period referred to in paragraph (b) he or she has not recovered any capital from the company or from a connected company, apart from any amount taken into account under section 249.

(3) Relief shall not be given in respect of any payment of interest by an individual on a loan applied on or after the 24th day of April, 1992, for any of the purposes specified in subsection (1) unless the loan is applied for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

(4) Subsection (1) 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 year of assessment 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 Income Tax Acts apart from this section.