

Restriction on relief where amounts raised exceed permitted maximum. FA84 s13A; FA89 s9; FA91 s15(1)(c) and s17(1)(b) and (c); FA93 s25(d)(i)(II) and FA96 s19(1) and (2); FA97 s146(1) and Sch9 par13(2) 491.—(1) In this section, “qualifying subsidiary”, in relation to a company, means a subsidiary of that company of a kind which a company may have by virtue of section 507.

(2) (a) Subject to this section, where a company raises any amount through the issue of eligible shares (in this section referred to as “the relevant issue”), relief shall not be given in respect of the excess of the amount over the amount determined by the formula—

$£1,000,000 - A$

where A is the lesser of—

(i) £1,000,000, and

(ii) an amount equal to the aggregate of all amounts raised by the company through the issue of eligible shares at any time before the relevant issue.

(b) Notwithstanding paragraph (a), in the case of a company which, or whose qualifying subsidiary, either carries on or intends to carry on qualifying trading operations referred to in section 496 (2) (a) (iv), this section shall apply, in relation to that company and money raised or intended to be raised by it under this Part by virtue of section 496 (2) (a) (iv) (II), as if in the formula in paragraph (a) and in the formula in subsection (3) “£100,000” were substituted for “£1,000,000” in each place where it occurs.

(3) Where a company raises any amount through a relevant issue and that company is associated (within the meaning of this section) with one or more other companies, then, as respects that company, relief shall not be given in respect of the excess of the amount so raised over the amount determined by the formula—

$£1,000,000 - B$

where B is an amount equal to so much as does not exceed £1,000,000 of the aggregate of all amounts raised through the issue of eligible shares at any time before or on the date of the relevant issue (other than the amount raised through the relevant issue) by all of the companies (including that company) which are associated within the meaning of this section.

(4) For the purposes of this section, a company shall be associated with another company where—

(a) in the case of that company, or a company which is, or was at any time, its qualifying subsidiary, and

(b) that other company, or a company which is, or was at any time, its qualifying subsidiary,

it could reasonably be considered that—

(i) both companies act in pursuit of a common purpose,

(ii) any person or any group of persons or groups of persons having a reasonable commonality of identity have or had the means or power, either directly or indirectly, to determine the trading operations carried on or to be carried on by both companies, or

(iii) both companies are under the control of any person or group of persons or groups of persons having a reasonable commonality of identity;

but for the purposes of this section a company shall not be considered as associated with another company by reason only of the fact that a subscription for eligible shares in both companies is made by a person or persons having the management of an investment fund designated under section 508 as nominee for any person or group or groups of persons.

(5) In determining for the purposes of the formula in subsection (2)(a) or, as the case may be, the formula in subsection (3) the amount to which paragraph (ii) of the definition of “A” in subsection (2)(a) or, as the case may be, the amount to which the definition of “B” in subsection (3) relates, account shall not be taken of any amount—

(a) which is subscribed by a person other than an individual who qualifies for relief, or

(b) in respect of which relief is precluded by virtue of section 490.

(6) Where as a consequence of subsection (2) or (3) the giving of relief would be precluded on claims in respect of shares issued to 2 or more individuals, the available relief shall be divided between them respectively in proportion to the amounts which have been subscribed by them for the shares to which their claims relate and which apart from this section would be eligible for relief.