

## VCT (Exchange of Shares and Securities) Regulations update

On 30 January 2018, the amended VCT (Exchange of Shares and Securities) Regulations were laid before Parliament, and they come into force for transactions on or after 22 February 2018. Power to amend the Exchange Regulations was given in the Finance Act enacted last year.

Draft Regulations were published in late November 2017, and comments were invited by 2 January 2018. The purpose of the amendments to the Regulations is to bring transactions in non-qualifying holdings within the Exchange Regulations; without the amended Regulations a reorganisation of a non-qualifying holding could cause a VCT to be regarded as making a new non-qualifying investment, thus breaching the conditions of section 274 ITA 2007. Since April 2016, a number of VCTs have had to seek dispensations from HMRC regarding transactions in non-qualifying holdings. The amendments will mean that some transactions will not need to be reported to HMRC.

Non-qualifying holdings can arise from previous investments becoming non-qualifying, or investments being taken over by a non-qualifying company, or because VCTs were permitted to make certain non-qualifying investments before the rules changed in November 2015.

Under the Regulations, where there is a reorganisation or exchange of a non-qualifying holding, the VCT has a period of 12 months to dispose of the resulting holding, unless that non-qualifying is one of the investments permitted by s.274 ITA 2007. As a reminder, permitted non-qualifying investments are only:

- Deposit accounts accessible within 7 days
- AIFs with notice period not exceeding 7 days
- UCITs with notice period not exceeding 7 days
- Shares or securities acquired on a European regulated stock market

Where a non-qualifying investment is exchanged for another non-qualifying holding, then the VCT will have a period of 12 months to dispose of any shares received, and 18 months to dispose of any securities received, unless the shares or securities received are investments which are permitted by s.274 ITA 2007. Where the VCT cannot dispose of the resulting holding within the specified 12 or 18 month period, or where the VCT receives an investment which is neither a share nor a security, e.g. a short term loan, the VCT will need to report this to HMRC.

We were pleased to have the opportunity to make representations to HMRC on the draft Regulations. Whilst the 12 and 18 month periods are more helpful than was previously proposed, it is disappointing that a longer holding period is not permitted, given the illiquidity of VCT investments. We had also hoped that the Regulations would deal with short term loans (which are not securities), and that they had been updated to take into account the changes to the VCT rules in the 2015 and 2016 Finance Acts.

The Regulations be found at [http://www.legislation.gov.uk/ukxi/2018/109/pdfs/ukxi\\_20180109\\_en.pdf](http://www.legislation.gov.uk/ukxi/2018/109/pdfs/ukxi_20180109_en.pdf)

If you have any questions, please let us know.

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