
*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1998, Part IV. (See end of Document for details)*

SCHEDULES

SCHEDULE 13

CHANGES TO EISETC

PART IV

BES INCOME TAX RELIEF AND RELIEF AGAINST CHARGEABLE GAINS

- 37 Any reference in this Part to a provision of Chapter III of Part VII of the Taxes Act 1988 is a reference to that provision as it has effect in relation to shares issued before 1st January 1994.
- 38 (1) In subsection (8) of section 293 of the Taxes Act 1988 (qualifying companies), for the words “Subject to sections 308 and 309” there shall be substituted the words “Subject to sections 304A, 308 and 309”.
- (2) This paragraph has effect in relation to new shares (within the meaning of section 304A of the Taxes Act 1988) issued on or after 6th April 1998.
- 39 (1) At the beginning of subsection (1) of section 299 of the Taxes Act 1988 (disposals of shares) there shall be inserted the words “Subject to section 304(5),”.
- (2) For subsection (4) of that section there shall be substituted the following subsections—
- “(4) Where shares of any class in a company have been acquired by an individual on different days, any disposal by him of shares of that class shall, subject to subsection (3) above, be treated for the purposes of this section as relating to those acquired on an earlier day rather than to those acquired on a later day.
- (4A) Where shares of any class in a company have been acquired by an individual on the same day, any disposal by him of shares of that class shall, subject to subsection (3) above, be treated for the purposes of this section as relating to those in respect of which relief has not been given, or has been withdrawn, rather than to those in respect of which relief has been given and has not been withdrawn.
- (4B) Any shares in respect of which relief has been given and has not been withdrawn and which were transferred to an individual as mentioned in section 304 shall be treated for the purposes of subsections (4) and (4A) above as acquired by him on the day on which they were issued.
- (4C) In a case to which section 127 of the 1992 Act applies (whether or not by virtue of section 135(3) of that Act), shares comprised in the new holding shall be treated for the purposes of subsections (4) and (4A) above as acquired when the original shares were acquired.

In this subsection “new holding” and “original shares” shall be construed in accordance with sections 126, 127, 135 and 136 of the 1992 Act.”

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- (3) This paragraph has effect in relation to disposals made on or after 6th April 1998.
- 40 (1) After subsection (6) of section 304 of the Taxes Act 1988 (husband and wife) there shall be inserted the following subsection—
- “(7) Subsections (3) to (4C) of section 299 shall apply for the purposes of this section as they apply for the purposes of that section.”
- (2) This paragraph has effect in relation to disposals made on or after 6th April 1998.
- 41 (1) After that section there shall be inserted the following section—

“304A Acquisition of share capital by new company.

- (1) This section applies where—
- (a) a company (“the new company”) in which the only issued shares are subscriber shares acquires all the shares (“old shares”) in another company (“the old company”);
 - (b) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company;
 - (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description;
 - (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of and in proportion to their holdings;
 - (e) at some time before the issue of the new shares—
 - (i) the old company issued eligible shares; and
 - (ii) a certificate in relation to those eligible shares was issued by that company for the purposes of subsection (2) of section 306 and in accordance with that section; and
 - (f) before the issue of the new shares, the Board have, on the application of the new company or the old company, notified that company that the Board are satisfied that the exchange of shares—
 - (i) will be effected for bona fide commercial reasons; and
 - (ii) will not form part of any such scheme or arrangements as are mentioned in section 137(1) of the 1992 Act.
- (2) For the purposes of this Chapter—
- (a) the exchange of shares shall not be regarded as involving any disposal of the old shares or any acquisition of the new shares; and
 - (b) any relief which has been given (and not withdrawn) in respect of any old shares shall be treated as given (and not withdrawn) in respect of the new shares for which they are exchanged.
- (3) Where, in the case of any new shares held by an individual in respect of which relief is treated as so given (and not withdrawn), the old shares for which they are exchanged were subscribed for by and issued to the individual, this Chapter shall have effect as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for by him;
 - (b) the new shares had been issued to him by the new company at the time when the old shares were issued to him by the old company;

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- (c) the claim for relief made in respect of the old shares had been made in respect of the new shares;
 - (d) relief had been given to him in respect of the new shares for the same year of assessment as that for which relief was given to him in respect of the old shares; and
 - (e) any reduction made, or falling to be made, in the amount of relief given to him in respect of the old shares had been made, or fell to be made, in the amount of relief given to him in respect of the new shares.
 - (4) Where, in the case of any new shares held by an individual in respect of which relief is treated as so given (and not withdrawn), the old shares for which they are exchanged were transferred to the individual as mentioned in section 304, this Chapter shall have effect in relation to any subsequent disposal or other event as if—
 - (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for;
 - (b) the new shares had been issued by the new company at the time when the old shares were issued by the old company;
 - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares;
 - (d) relief had been given to him in respect of the new shares for the same year of assessment as that for which relief was given in respect of the old shares; and
 - (e) any reduction made, or falling to be made, in the amount of relief given in respect of the old shares had been made, or fell to be made, in the amount of relief given to him in respect of the new shares.
 - (5) Where relief is treated as so given (and not withdrawn) in respect of any new shares, this Chapter shall have effect as if anything which, under section 306(2) or 310, has been done, or is required to be done, by or in relation to the old company had been done, or were required to be done, by or in relation to the new company.
 - (6) For the purposes of this section old shares and new shares are of a corresponding description if, on the assumption that they were shares in the same company, they would be of the same class and carry the same rights; and in subsection (1) above references to shares, except in the expressions “eligible shares” and “subscriber shares”, include references to securities.
 - (7) Nothing in section 293(8) shall apply in relation to such an exchange of shares, or shares and securities, as is mentioned in subsection (1) above or arrangements with a view to such an exchange.
 - (8) Subsection (2) of section 138 of the 1992 Act shall apply for the purposes of subsection (1)(f) above as it applies for the purposes of subsection (1) of that section.”
- (2) This paragraph has effect in relation to new shares (within the meaning of section 304A of the Taxes Act 1988) issued on or after 6th April 1998.
- 42 (1) In subsection (4)(a) of section 150 of the ^{M1}Taxation of Chargeable Gains Act 1992 (business expansion schemes)—

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- (a) for the words “issued to a person” there shall be substituted the words “acquired by an individual”; and
 - (b) after the word “relates” there shall be inserted the word “to”.
- (2) In subsection (5) of that section, for the words “Notwithstanding anything in section 107(1) and (2), section 107 does not apply” there shall be substituted the words “Sections 104, 105 and 106A do not apply”.
- (3) In subsection (7) of that section, for the words “eligible shares” there shall be substituted the words “shares in respect of which relief has been given and not withdrawn”.
- (4) In subsection (8) of that section, the word “eligible” shall cease to have effect.
- (5) In subsection (8A)(a) of that section, the word “preferential”, in the second place where it occurs, shall cease to have effect.
- (6) After subsection (8C) of that section there shall be inserted the following subsection—
- “(8D) Where shares in respect of which relief has been given and not withdrawn are exchanged for other shares in circumstances such that section 304A of the Taxes Act (acquisition of share capital by new company) applies—
- (a) subsection (8) above shall not have effect to disapply section 135; and
 - (b) subsections (2)(b), (3) and (4) of section 304A of the Taxes Act, and subsection (5) of that section so far as relating to section 306(2) of that Act, shall apply for the purposes of this section as they apply for the purposes of Chapter III of Part VII of that Act.”
- (7) After subsection (11) of that section there shall be inserted the following subsection—
- “(12) In this section—
- “ordinary share capital” has the same meaning as in the Taxes Act;
 - “ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital.”
- (8) In this paragraph—
- (a) sub-paragraphs (1) and (2) have effect in relation to disposals made on or after 6th April 1998;
 - (b) sub-paragraph (3) has effect in relation to subsequent disposals made on or after that date;
 - (c) sub-paragraph (4) has effect in relation to events occurring on or after that date;
 - (d) sub-paragraph (5) has effect in relation to new shares (within the meaning of section 150(8A) of the ^{M2}Taxation of Chargeable Gains Act 1992) issued on or after that date;
 - (e) sub-paragraph (6) has effect in relation to new shares (within the meaning of section 304A of the Taxes Act 1988) issued on or after that date; and
 - (f) sub-paragraph (7) has effect in relation to events occurring on or after that date.

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Marginal Citations

M1 1992 c. 12.

M2 1992 c. 12.

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