



Income Tax Act 2007

2007 CHAPTER 3

PART 5

ENTERPRISE INVESTMENT SCHEME

CHAPTER 8

SUPPLEMENTARY AND GENERAL

Disposals of shares

245 Transfers between spouses or civil partners

- (1) This section applies if—
- shares to which an amount of EIS relief is attributable were issued to an individual (“A”),
 - A transferred the shares to another individual (“B”) during their lives,
 - A was married to, or was the civil partner of, B at the time of the transfer, and
 - section 209 (disposal of shares) does not apply to the transfer.
- (2) This Part has effect, in relation to any subsequent disposal or other event, as if—
- B were the individual who had subscribed for the shares,
 - the amount that B had subscribed for the shares were the amount that A had subscribed for them,
 - B's liability to income tax had been reduced in respect of the shares for the same tax year as that for which A's was so reduced,
 - the amount by which B's liability to income tax had been reduced in respect of the shares were the same as that by which A's liability to income tax had been so reduced, and
 - that amount of EIS relief had continued to be attributable to the shares despite the transfer.

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- (3) If the amount of EIS relief attributable to the shares had been reduced before the relief was obtained by A—
- (a) this Part has effect, in relation to any subsequent disposal or other event, as if the amount of EIS relief attributable to the shares transferred to B had been correspondingly reduced before the relief was obtained by B, and
 - (b) sections 210(3), 220(2) and 229(3) apply in relation to B as they would have applied in relation to A.
- (4) If, because of any such disposal or other event, an assessment for reducing or withdrawing EIS relief is to be made, the assessment is to be made on B.

246 Identification of shares on a disposal

- (1) The rules in subsections (2) and (3) are for determining which shares of any class are treated as disposed of for the purposes of—
- (a) section 209 (disposal of shares), or
 - (b) section 245 (spouses or civil partners),
- if the investor disposes of some but not all of the shares of that class which the investor holds in a company.
- (2) Shares acquired on an earlier day are treated as disposed of before shares acquired on a later day.
- (3) Shares acquired on the same day are treated as disposed of in the following order—
- (a) first any to which [^{F1}no EIS relief, deferral relief or SEIS relief] is attributable,
 - [^{F2}(aa) next any to which SEIS relief is attributable,]
 - (b) next any to which deferral relief, but not EIS relief, is attributable,
 - (c) next any to which EIS relief, but not deferral relief, is attributable, and
 - (d) finally any to which both EIS relief and deferral relief are attributable.
- (4) Any shares within paragraph (c) or (d) of subsection (3) which are treated by section 201(6) as issued on an earlier day are treated as disposed of before any other shares falling within that paragraph of subsection (3).
- (5) The following—
- (a) any shares to which EIS relief is attributable and which were transferred to an individual as mentioned in section 245, and
 - (b) any shares to which deferral relief, but not EIS relief, is attributable and which were acquired by an individual on a disposal to which section 58 of TCGA 1992 applies,
- are treated for the purposes of subsections (2) and (3) as acquired by the individual on the day on which they were issued.
- (6) In a case to which section 127 of TCGA 1992 applies (including the case where that section applies by virtue of an enactment relating to chargeable gains), shares included in the new holding are treated for the purposes of subsections (2) and (3) as acquired when the original shares were acquired.
- (7) In this section—
- “deferral relief” has the same meaning as in Schedule 5B to TCGA 1992,

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“new holding” and “original shares” have the same meaning as in section 127 of TCGA 1992 (or, as the case may be, that section as applied by the enactment concerned).

[^{F3}“SEIS relief” means relief under Part 5A (seed enterprise investment scheme).]

Textual Amendments

- F1** Words in s. 246(3)(a) substituted (17.7.2012) (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 14\(2\)\(a\)](#)
- F2** S. 246(3)(aa) inserted (17.7.2012) (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 14\(2\)\(b\)](#)
- F3** Words in s. 246(7) inserted (17.7.2012) (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 14\(3\)](#)

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