



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 5

#### ENTERPRISE INVESTMENT SCHEME

### CHAPTER 6

#### WITHDRAWAL OR REDUCTION OF EIS RELIEF

##### *Value received by investor*

#### **222 Receipt of replacement value**

- (1) If—
- (a) any EIS relief attributable to the relevant shares would, in the absence of this section, be reduced or withdrawn under section 213 because of a receipt of value within section 216(2) or (6) (“the original value”),
  - (b) the original supplier receives value (“the replacement value”) from the original recipient and the receipt is a qualifying receipt, and
  - (c) the amount of the replacement value is at least the amount of the original value, section 213 does not, because of the receipt of the original value, have effect to reduce or withdraw the EIS relief.

This is subject to section 223(1) and (2).

- (2) For the purposes of this section—
- “the original recipient” means the person who receives the original value,
  - “the original supplier” means the person from whom that value was received.
- (3) If the amount of the original value is, by virtue of section 218, treated as reduced for the purposes of section 213(2) as it applies in relation to the relevant shares in question,

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Section 222. (See end of Document for details)*

the reference in subsection (1)(c) to the amount of the original value is to be read as a reference to the amount of that value ignoring the reduction.

- (4) A receipt of the replacement value is a qualifying receipt for the purposes of subsection (1) if it arises—
- (a) because of the original recipient doing one or more of the following—
    - (i) making a payment to the original supplier, other than a payment within paragraph (c) or a payment to which subsection (5) applies,
    - (ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset,
    - (iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset,
  - (b) if the receipt of the original value was within section 216(2)(d), because of an event the effect of which is to reverse the event which constituted the receipt of the original value, or
  - (c) if the receipt of the original value was within section 216(6), because of the original recipient repurchasing the share capital or securities in question, or (as the case may be) re-acquiring the right in question, for a consideration the amount or value of which is at least the amount of the original value.
- (5) This subsection applies to—
- (a) any payment for any goods, services or facilities, provided (whether in the course of trade or otherwise) by—
    - (i) the original supplier, or
    - (ii) any other person who, at any time in period C relating to the relevant shares, is an associate of, or is connected with, that supplier (whether or not the other person is such an associate, or is so connected, at the material time),
 which is reasonable in relation to the market value of those goods, services or facilities,
  - (b) any payment of any interest which represents no more than a reasonable commercial return on any money lent to—
    - (i) the original recipient, or
    - (ii) any person who, at any time in period C relating to the relevant shares, is an associate of that recipient (whether or not the person is such an associate at the material time),
  - (c) any payment for the acquisition of an asset which does not exceed its market value,
  - (d) any payment, as rent for any property occupied by—
    - (i) the original recipient, or
    - (ii) any person who, at any time in period C relating to the relevant shares, is an associate of that recipient (whether or not the person is such an associate at the material time),
 of an amount not exceeding a reasonable and commercial rent for the property,
  - (e) any payment in discharge of an ordinary trade debt, and
  - (f) any payment for shares in or securities of any company in circumstances that do not fall within subsection (4)(a)(ii).
- (6) For the purposes of this section, the amount of the replacement value is—

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- (a) in a case within paragraph (a) of subsection (4), the sum of—
  - (i) the amount of any payment within sub-paragraph (i) of that paragraph, and
  - (ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it,
- (b) in a case within subsection (4)(b), the same as the amount of the original value, and
- (c) in a case within subsection (4)(c), the amount or value of the consideration received by the original supplier.

Section 217 applies for the purpose of determining the amount of the original value.

- (7) In this section—
- (a) any reference to a payment to a person (however expressed) includes a reference to a payment made to the person indirectly or to the person's order or for the person's benefit, and
  - (b) “ordinary trade debt” has the meaning given by section 216(10).

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