



Income Tax Act 2007

2007 CHAPTER 3

PART 4 U.K.

LOSS RELIEF

CHAPTER 6 U.K.

LOSSES ON DISPOSAL OF SHARES

Limits on share loss relief and mixed holdings

147 Limits on share loss relief U.K.

- (1) Subsection (2) applies if—
 - (a) an individual disposes of any qualifying shares,
 - (b) those shares either—
 - (i) form part of a section 104 holding^{F1}... at the time of the disposal,^{F2}...
 - ^{F3}(ii) at a time earlier than the time of the disposal but after 5 April 2008 formed part of a section 104 holding, or
 - (iii) at a time earlier than that time and than 6 April 2008 formed part of an old section 104 holding or a 1982 holding, and]
 - (c) the individual makes a claim under section 132 in respect of a loss incurred on the disposal.
- (2) The amount of share loss relief on the disposal is not to exceed the sums that would be allowed as deductions in calculating the amount of the loss if the qualifying shares had not formed part of the holding.
- (3) Subsection (4) applies if—
 - (a) an individual disposes of any qualifying shares,
 - (b) the qualifying shares, and other shares that are not capable of being qualifying shares, are for the purposes of TCGA 1992 to be treated as acquired by a

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- single transaction by virtue of section 105(1)(a) of that Act (disposal of shares acquired on same day etc), and
- (c) the individual makes a claim under section 132 in respect of a loss incurred on the disposal.
- (4) The amount of share loss relief on the disposal is not to exceed the sums that would be allowed as deductions in calculating the amount of the loss if—
- (a) the qualifying shares were to be treated as acquired by a single transaction, and
- (b) the other shares were not to be so treated.
- (5) Subsection (6) applies if—
- (a) an individual disposes of any qualifying shares,
- (b) the qualifying shares (taken as a single asset), and other shares in the same company that are not capable of being qualifying shares (taken as a single asset), are for the purposes of TCGA 1992 to be treated as the same asset by virtue of section 127 of that Act (reorganisation etc treated as not involving disposal), and
- (c) the individual makes a claim under section 132 in respect of a loss incurred on the disposal,

References in this subsection and subsection (6) to other shares in the same company include debentures of the same company.

- (6) The amount of share loss relief on the disposal is not to exceed the sums that would be allowed as deductions in calculating the amount of the loss if the qualifying shares and the other shares in the same company were not to be treated as the same asset.
- (7) In this section—
- “section 104 holding” has the meaning given by section 104(3) of TCGA 1992 [^{F4}and “old section 104 holding” is a holding that was a section 104 holding within the meaning of that provision as it applied in relation to disposals before 6 April 2008], and
- “1982 holding” has the meaning given by section 109(1) of that Act [^{F5}as it applied in relation to disposals before 6 April 2008].
- (8) For the purposes of this section and section 148, shares to which EIS relief is not attributable are not capable of being qualifying shares at any time if—
- (a) the individual acquired the shares otherwise than by subscription, [^{F6}or]
- (b) condition C in section 134(4) was not met in relation to the issue of the shares,
^{F7} ...
- ^{F7}(c)
- (9) For the purposes of subsection (5), shares to which EIS relief is not attributable are not capable of being qualifying shares at any time if they are shares of a different class from the shares mentioned in paragraph (a) of that subsection.

Textual Amendments

- F1** Words in s. 147(1)(b)(i) omitted (21.7.2008 with effect in accordance with Sch. 2 para. 100 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 98\(2\)\(a\)](#)
- F2** Word in s. 147(1)(b)(i) omitted (21.7.2008 with effect in accordance with Sch. 2 para. 100 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 98\(2\)\(a\)](#)

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- F3** S. 147(1)(b)(ii)(iii) substituted (21.7.2008 with effect in accordance with Sch. 2 para. 100 of the amending Act) for s. 147(1)(b)(ii) by [Finance Act 2008 \(c. 9\), Sch. 2 para. 98\(2\)\(b\)](#)
- F4** Words in s. 147(7) inserted (21.7.2008 with effect in accordance with Sch. 2 para. 100 of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 2 para. 98\(3\)\(a\)](#)
- F5** Words in s. 147(7) inserted (21.7.2008 with effect in accordance with Sch. 2 para. 100 of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 2 para. 98\(3\)\(b\)](#)
- F6** Word in s. 147(8)(a) inserted (with effect in accordance with s. 38(3) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 38\(2\)\(a\)\(ii\)](#)
- F7** S. 147(8)(c) and word omitted (with effect in accordance with s. 38(3) of the amending Act) by virtue of [Finance Act 2020 \(c. 14\), s. 38\(2\)\(a\)\(ii\)](#)

148 Disposal of shares forming part of mixed holding **U.K.**

- (1) This section applies if an individual disposes of shares forming part of a mixed holding of shares, that is, a holding of shares in a company which includes—
 - (a) shares that are not capable of being qualifying shares, and
 - (b) other shares.
- (2) Any question—
 - (a) whether a disposal by the individual of shares forming part of the mixed holding is of qualifying shares, or
 - (b) as to which of any qualifying shares acquired by the individual at different times such a disposal relates to,is to be determined as provided by the following provisions of this section.
- (3) Any such question as is mentioned in subsection (2) is to be determined—
 - (a) except in a case falling within paragraph (b)—
 - (i) in accordance with subsection (4), and
 - (ii) in the case of shares which under that subsection are identified with the whole or any part of a section 104 holding^{F8} ..., in accordance with subsection (5),
 - (b) in the case of a mixed holding which includes any of the following—
 - [^{F9}(ai) shares to which SEIS relief is attributable (as determined in accordance with Part 5A),]
 - (i) shares issued before 1 January 1994 in respect of which relief has been given under Chapter 3 of Part 7 of ICTA (business expansion scheme) and has not been withdrawn,
 - (ii) shares to which EIS relief is attributable, and
 - (iii) shares to which deferral relief (within the meaning of Schedule 5B to TCGA 1992) is attributable,in accordance with subsection (6).
- (4) For the purposes of subsection (3)(a)(i), the question is to be determined by identifying the shares disposed of in accordance with sections 105 to 105B and 106A of TCGA 1992.
- (5) For the purposes of subsection (3)(a)(ii), the question is to be determined by treating the disposal and any previous disposal by the individual out of the section 104^{F10} ... holding as relating to shares acquired later rather than earlier.
- (6) For the purposes of subsection (3)(b), the question is to be determined—

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- (a) in relation to shares issued before 1 January 1994, as provided by subsections (3) to (4C) of section 299 of ICTA (as that section has effect in relation to shares so issued),
 - (b) in relation to shares issued on or after that date and before 6 April 2007, as provided by subsections (6) to (6D) of that section (as that section has effect in relation to shares so issued), and
 - (c) in relation to shares issued on or after 6 April 2007, as provided by section 246 of this Act.
- (7) Any such question as is mentioned in subsection (2) which cannot be determined as provided by subsections (3) to (6) is to be determined on a just and reasonable basis.
- (8) In this section “holding” means any number of shares of the same class held by one individual in the same capacity, growing or diminishing as shares of that class are acquired or disposed of.

For this purpose—

- (a) shares are not to be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt in on such an exchange, and
 - (b) subsection (4) of section 104 of TCGA 1992 applies as it applies for the purposes of subsection (1) of that section.
- (9) In this section “section 104 holding” [F11] has the same meaning as in section 147.

Textual Amendments

- F8** Words in s. 148(3)(a)(ii) omitted (21.7.2008 with effect in accordance with Sch. 2 para. 100 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 99\(2\)](#)
- F9** S. 148(3)(b)(ai) inserted (with effect in accordance with Sch. 3 para. 3 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 3 para. 2\(4\)](#)
- F10** Words in s. 148(5) omitted (21.7.2008 with effect in accordance with Sch. 2 para. 100 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 99\(3\)](#)
- F11** Word in s. 148(9) substituted (21.7.2008 with effect in accordance with Sch. 2 para. 100 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 99\(4\)](#)

149 Section 148: supplementary **U.K.**

- (1) In the case of a disposal of shares within section 148(3)(b)(ii) or (iii) to which section 105A of TCGA 1992 (election for alternative treatment: approved-scheme shares) applies—
- (a) section 299 of ICTA (identification of shares) has effect for the purposes of section 148(6)(b), and
 - (b) section 246 of this Act has effect for the purposes of section 148(6)(c), with the same modifications as those with which they have effect for the purposes of section 150A(4) of TCGA 1992 (enterprise investment schemes).
- (2) In a case to which section 127 of TCGA 1992 (reorganisation etc treated as not involving disposal) applies (including a 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 section 148 as acquired when the original shares were acquired.

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- (3) Any shares held or disposed of by a nominee or bare trustee for an individual are treated for the purposes of section 148 as held or disposed of by that individual.
- (4) In this section “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).

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