



Income Tax Act 2007

2007 CHAPTER 3

PART 5

ENTERPRISE INVESTMENT SCHEME

CHAPTER 6

WITHDRAWAL OR REDUCTION OF EIS RELIEF

Repayments etc of share capital to other persons

224 Repayments etc of share capital to other persons

- (1) This section applies if any EIS relief is attributable to shares held by an individual and, at any time in period C, the issuing company or any subsidiary—
- (a) repays, redeems or repurchases any of its share capital which belongs to any member other than—
 - (i) the individual, or
 - (ii) a person who falls within subsection (4), or
 - (b) makes any payment to any such member for giving up the member's right to any of the share capital of the company or subsidiary on its cancellation or extinguishment.
- (2) The EIS relief must—
- (a) if it is greater than the amount given by the formula set out below, be reduced by that amount, and
 - (b) in any other case, be withdrawn.

The formula is—

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R × S

where—

R is the amount received by the member, and

S is the savings rate for the tax year for which the EIS relief was obtained.

- (3) This section is subject to the following sections—
- (a) section 225 (insignificant repayments ignored for the purposes of this section),
 - (b) section 226 (amount of repayments etc where there is more than one issue of shares),
 - (c) section 227 (single issue affecting more than one individual),
 - (d) section 228 (single issue treated as made partly in previous tax year),
 - (e) section 229 (maximum relief not obtained for share issue),
 - (f) section 230 (repayment of authorised minimum within 12 months), and
 - (g) section 231 (restriction on withdrawal of relief).

Sections 226 to 229 are to be applied in the order in which they appear in this Part.

- (4) A person falls within this subsection if the repayment—
- (a) causes any EIS relief attributable to that person's shares in the issuing company to be withdrawn or reduced by virtue of—
 - (i) section 209 (disposal of shares), or
 - (ii) section 216(2)(a) (receipt of value by virtue of repayment of share capital etc),
 - (b) causes any investment relief under Schedule 15 to FA 2000 (the corporate venturing scheme) attributable to that person's shares in the issuing company to be withdrawn or reduced by virtue of—
 - (i) paragraph 46 of that Schedule (disposal of shares), or
 - (ii) paragraph 49(1)(a) of that Schedule (receipt of value by virtue of repayment of share capital etc), or
 - (c) gives rise to a qualifying chargeable event within the meaning of paragraph 14(4) of Schedule 5B to TCGA 1992 (EIS: deferral relief) in respect of that person's shares in the issuing company.
- (5) A repayment is treated as having the effect mentioned in subsection (4)(a), (b) or (c) if it would have that effect were it not a receipt of insignificant value for the purposes of whichever of the following is applicable—
- (a) section 213,
 - (b) paragraph 47 of Schedule 15 to FA 2000, and
 - (c) paragraph 13 of Schedule 5B to TCGA 1992.
- (6) A repayment is to be ignored, for the purposes of this section, to the extent to which EIS relief attributable to any shares has already been withdrawn or reduced on its account.
- (7) In this section and sections 225 to 231—
- (a) “repayment” means a repayment, redemption, repurchase or payment mentioned in subsection (1)(a) or (b), and

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- (b) references to a subsidiary of a company are references to a company which, at any time in period A relating to the shares in question, is a 51% subsidiary of the company, whether or not it is such a subsidiary at the time of the repayment.

225 Insignificant repayments ignored for purposes of section 224

- (1) A repayment is ignored for the purposes of section 224 (repayments etc of share capital to other persons) if both—
 - (a) the market value of the shares to which it relates (“the target shares”) immediately before the event occurs, and
 - (b) the amount received by the member in question,are insignificant in relation to the market value of the remaining issued share capital of the issuing company (or, as the case may be, the subsidiary) immediately after the event occurs.

This is subject to subsection (3).
- (2) For the purposes of subsection (1) it is assumed that the target shares are cancelled at the time the repayment is made.
- (3) Subsection (1) does not apply if repayment arrangements are in existence at any time in the period—
 - (a) beginning 12 months before the issue of the relevant shares, and
 - (b) ending at the end of the issue date.
- (4) For this purpose “repayment arrangements” means arrangements which provide—
 - (a) for a repayment by the issuing company or any subsidiary of that company (whether or not it is such a subsidiary at the time the arrangements are made), or
 - (b) for anyone to be entitled to such a repayment,at any time in period C relating to the relevant shares.

226 Amount of repayments etc where there is more than one issue of shares

- (1) This section applies if, in relation to the same repayment, section 224(2) applies to EIS relief attributable to two or more issues of shares.
- (2) Section 224(2) has effect in relation to the shares included in each of those issues as if the amount referred to as “R” were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

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A is the amount on which EIS relief was obtained by the individuals in respect of shares which are included in the issue and to which EIS relief is or, but for section 224(2)(b), would be attributable, and
 B is the sum of that amount and the corresponding amount or amounts in respect of the other issue or issues.

227 Single issue affecting more than one individual

- (1) This section applies if, in relation to the same repayment, section 224(2) applies to EIS relief attributable to shares held by two or more individuals.
- (2) Section 224(2) has effect in relation to each individual as if the amount referred to as “R” were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is the amount on which the individual obtains EIS relief in respect of the shares to which EIS relief is or, but for section 224(2)(b), would be attributable, and
 B is the sum of that amount and the corresponding amount or amounts on which the other individual or individuals obtain EIS relief in respect of such shares.

228 Single issue treated as made partly in previous tax year

- (1) This section applies if—
 - (a) section 224(2) applies to EIS relief attributable to shares held by an individual, and
 - (b) part of the issue of shares has been treated as issued to the individual in a previous tax year for the purposes of section 158(1) and (2) (form and amount of EIS relief).
- (2) This subsection explains how the calculation under section 224(2) is to be made.

Step 1

Apportion the amount referred to as “R” between the tax year in which the shares were issued and the previous tax year by multiplying that amount by the fraction—

$$\frac{A}{B}$$

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where—

A is the amount on which the individual obtains EIS relief in respect of the shares treated as issued in the tax year in question, and

B is the sum of that amount and the corresponding amount in respect of the shares treated as issued in the other tax year.

Step 2

In relation to each of the amounts (“R1” and “R2”) so apportioned to the two tax years, calculate the amounts (“X1” and “X2”) that would be given by the formula if there were separate issues of shares in those tax years.

In calculating amounts X1 and X2, apply section 229 if appropriate but do not apply section 226 or 227.

Step 3

Add amounts X1 and X2 together.

The result is the required amount.

229 Maximum relief not obtained for share issue

- (1) This section applies if section 224(2) applies to EIS relief attributable to shares held by an individual and—
 - (a) the amount of the reduction (“A”) in the individual's liability to income tax for any tax year in respect of the shares, is less than
 - (b) the amount (“B”) which is equal to income tax at the savings rate for that year on the amount on which the individual claims EIS relief in respect of the shares.
- (2) Section 224(2) has effect as if the amount referred to as “R” were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

- (3) If the amount of EIS relief attributable to any of the relevant shares has been reduced before the EIS relief was obtained, the amount referred to in subsections (1) and (2) as “A” is to be treated for the purposes of those subsections as the amount that it would have been without that reduction.
- (4) Subsection (3) does not apply to a reduction of EIS relief by virtue of section 201(4) (attribution of EIS relief where there is a corresponding issue of bonus shares).

230 Repayment of authorised minimum within 12 months

- (1) This section applies if—

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- [^{F1}(a) a company issues share capital (“the original shares”) of nominal value equal to the authorised minimum (within the meaning of the Companies Act 2006) for the purposes of complying with section 761 of that Act (public company: requirement as to minimum share capital),]
- (b) the registrar of companies issues the company with a certificate under that section.

- (2) Section 224(2) does not apply in relation to any redemption of the original shares within 12 months of the date on which they were issued.

^{F2}(3)

Textual Amendments

- F1** S. 230(1)(a) substituted (6.4.2008) by [Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2008 \(S.I. 2008/954\)](#), arts. 1(1), **39(2)** (with art. 4)
- F2** S. 230(3) repealed (6.4.2008) by [Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2008 \(S.I. 2008/954\)](#), arts. 1(1), 39(2), **Sch.** (with art. 4)

231 Restriction on withdrawal of relief under section 224

- (1) This section applies if, because of a repayment, any investment relief which is attributable under Schedule 15 to FA 2000 to any shares is withdrawn under paragraph 56(2) of that Schedule.
- (2) For the purposes of this section “the relevant amount” is the amount determined by the formula—

$$A - 5B$$

where—

A is the amount of the repayment, and

B is the total amount of investment relief withdrawn because of the repayment.

- (3) If the relevant amount does not exceed £1,000, the repayment is ignored for the purposes of section 224(1), unless repayment arrangements are in existence at any time in the period—
- (a) beginning 12 months before the issue of the shares mentioned in subsection (1), and
- (b) ending at the end of the issue date.
- (4) For this purpose “repayment arrangements” means arrangements which provide—
- (a) for a repayment by the issuing company or any subsidiary of that company, or
- (b) for anyone to be entitled to such a repayment,
- at any time.
- (5) Subsection (4)(a) applies in relation to a subsidiary of the issuing company whether or not it is such a subsidiary when the arrangements were made.

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- (6) If the repayment is not ignored by virtue of subsection (3), the amount received because of the repayment is treated for the purposes of section 224(2) as an amount equal to the relevant amount.
- (7) In this section—
- (a) “investment relief” has the same meaning as in Schedule 15 to FA 2000 (corporate venturing scheme), and
 - (b) references to the withdrawal of investment relief include its reduction.

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