



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART IV

SHARES, SECURITIES, OPTIONS ETC.

CHAPTER III

MISCELLANEOUS PROVISIONS RELATING TO
COMMODITIES, FUTURES, OPTIONS AND OTHER SECURITIES

[^{F1}150A Enterprise investment scheme.

(1) For the purpose of determining the gain or loss on any disposal of ^{F2}... shares by an individual where—

- (a) an amount of [^{F3}EIS relief] is attributable to the shares, and
- (b) apart from this subsection there would be a loss,

the consideration given by him for the shares shall be treated as reduced by the amount of the [^{F3}EIS relief].

(2) Subject to subsection (3) below, if on any disposal of ^{F4}... shares by an individual after the end of the period referred to in section 312(1A)(a) of the Taxes Act [^{F5}or section 159(2) of ITA 2007] where an amount of [^{F3}EIS relief] is attributable to the shares, there would (apart from this subsection) be a gain, the gain shall not be a chargeable gain.

[Notwithstanding anything in section 16(2), subsection (2) above shall not apply to a ^{F6}(2A) disposal on which a loss accrues.]

(3) Where—

- [^{F7}(a) an individual's liability to income tax has been reduced (or treated by virtue of section 304 of the Taxes Act or section 245 of ITA 2007 (spouses and civil partners) as reduced) for any year of assessment under section 289A of the Taxes Act or section 158 of ITA 2007 in respect of any issue of shares,

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- (b) the amount of the reduction (“A”) is less than the amount (“B”) which is equal to tax at the [^{F8}EIS original rate] for that year on the amount subscribed for the issue, and
- (c) A is not found under section 289A(2)(b) of the Taxes Act or (as the case may require) is not within paragraph (b) solely by virtue of section 29(2) and (3) of ITA 2007,]

then, if there is a disposal of the shares on which there is a gain, subsection (2) above shall apply only to so much of the gain as is found by multiplying it by the fraction—

AB

[In subsection (3) “EIS original rate” has the meaning given by section 256A of ITA ^{F9}(3A) 2007, except that where the year mentioned in subsection (3)(b) is the tax year 2007-08 or an earlier year, it means 20%.]

- (4) Any question as to—
 - (a) which of any shares [^{F10}acquired by an individual at different times a disposal relates to], being shares to which [^{F3}EIS relief] is attributable, or
 - (b) whether a disposal relates to shares to which [^{F3}EIS relief] is attributable or to other shares,

shall for the purposes of capital gains tax be determined as for the purposes of section 299 of the Taxes Act [^{F11}or as provided by section 246 of ITA 2007]; and Chapter I of this Part shall have effect subject to the foregoing provisions of this subsection.

- (5) [^{F12}Sections 104, 105 and 106A] shall not apply to shares to which [^{F3}EIS relief] is attributable.

[^{F13}(6) Where an individual holds shares which form part of the ordinary share capital of a company and include shares of more than one of the following kinds, namely—

- (a) shares to which [^{F3}EIS relief] is attributable and to which subsection (6A) below applies,
- (b) shares to which [^{F3}EIS relief] is attributable and to which that subsection does not apply, ^{F14}...
- [^{F15}(ba) shares to which SEIS relief is attributable; and]
- (c) shares to which [^{F16}neither EIS nor SEIS relief is] attributable,

then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply (subject to the following provisions of this section) separately to shares falling within paragraph (a), (b)[^{F17}, (ba)] or (c) above (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

(6A) This subsection applies to any shares if—

- (a) expenditure on the shares has been set under Schedule 5B to this Act against the whole or part of any gain; and
- (b) in relation to the shares there has been no chargeable event for the purposes of that Schedule.]

(7) Where—

- (a) an individual holds shares (“the existing holding”) which form part of the ordinary share capital of a company,
- (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and

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- (c) immediately following the reorganisation, [F³EIS relief] is attributable to the existing holding or the allotted shares,
sections 127 to 130 shall not apply in relation to the existing holding.
- (8) Sections 135 and 136 shall not apply in respect of shares to which [F³EIS relief] is attributable.
- [Subsection (8) above shall not have effect to disapply section 135 or 136 where—
- ^{F18}(8A) (a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company's assets on its winding up and no present or future ^{F19}... right to be redeemed,
(b) the new shares are issued on or after 29th November 1994 and after the end of the relevant period, and
(c) the condition in subsection (8B) below is satisfied.
- (8B) The condition is that at some time before the issue of the new shares—
(a) the company issuing them issued eligible shares, and
(b) a certificate in relation to those eligible shares was issued by the company for the purposes of [F²⁰section 306(2) of the Taxes Act or section 203(1) of ITA 2007 and in accordance with section 306 of the Taxes Act or sections 204 and 205 of ITA 2007].
- (8C) In subsection (8A) above—
(a) “new holding” shall be construed in accordance with sections 126, 127, 135 and 136;
(b) “relevant period” means the period found by applying section 312(1A)(a) of the Taxes Act [F²¹or section 159(2) of ITA 2007] by reference to the company issuing the shares referred to in subsection (8) above and by reference to those shares.]
- [Where shares to which [F³EIS relief] is attributable are exchanged for other shares in
- ^{F22}(8D) circumstances such that section 304A of the Taxes Act [F²³or section 247 of ITA 2007] (acquisition of share capital by new company) applies—
(a) subsection (8) above shall not have effect to disapply section 135; and
[F²⁴(b) the following—
(i) 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, or
(ii) sections 247(3)(b), 248(2)(a) and 249 of ITA 2007,
shall apply for the purposes of this section as they apply for the purposes of Chapter 3 of Part 7 of the Taxes Act or Part 5 of ITA 2007.]]
- (9) Where the [F³EIS relief] attributable to any shares is reduced by virtue of section 305(2) of the Taxes Act—
(a) the sums allowable as deductions from the consideration in the computation, for the purposes of capital gains tax, of the gain or loss accruing to an individual on the disposal of any of the allotted shares or debentures shall be taken to include the amount of the reduction apportioned between the allotted shares or (as the case may be) debentures in [F²⁵a way which is] just and reasonable, and
(b) the sums so allowable on the disposal (in circumstances in which the preceding provisions of this section do not apply) of any of the shares referred

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to in section 305(1)(a) shall be taken to be reduced by the amount mentioned in paragraph (a) above, similarly apportioned between those shares.

- (10) There shall be made all such adjustments of capital gains tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of [F26EIS relief] being given or withdrawn.

[In this section—

^{F27}(10A) [F28“EIS relief” means relief under Chapter 3 of Part 7 of the Taxes Act or Part 5 of ITA 2007;]

“ordinary share capital” has [F29the meaning given in section 989 of ITA 2007];

“ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital;

[F28“SEIS relief” means relief under Part 5A of ITA 2007].]

- (11) Chapter III of Part VII of the Taxes Act [F30or Part 5 of ITA 2007] (enterprise investment scheme) applies for the purposes of this section to determine whether [F3EIS relief] is attributable to any shares and, if so, the amount of [F3EIS relief] so attributable; and “eligible shares” has the same meaning as in that Chapter [F31or means shares that meet the requirements of section 173(2) of ITA 2007].

- (12) References in this section to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued on or after 1st January 1994.

[References in this section to Part 5 of ITA 2007 or any provision of that Part are to a

^{F32}(13) Part or provision that applies only in relation to shares issued after 5 April 2007.]]

Textual Amendments

- F1** S. 150A inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 15 para. 30](#)
- F2** Word in s. 150A(1) repealed (with effect in accordance with Sch. 13 para. 24(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(1\)](#), [Sch. 27 Pt. III\(14\)](#)
- F3** Words in s. 150A substituted (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 20\(2\)](#)
- F4** Word in s. 150A(2) repealed (with effect in accordance with Sch. 13 para. 24(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(1\)](#), [Sch. 27 Pt. III\(14\)](#)
- F5** Words in s. 150A(2) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(2\)](#) (with Sch. 2)
- F6** S. 150A(2A) inserted (with application in accordance with Sch. 13 para. 2(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 13 para. 2\(2\)](#)
- F7** Ss. 150A(3)(a)-(c) substituted for s. 150A(3)(a)(aa)(b) (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(3\)](#) (with Sch. 2)
- F8** Words in s. 150A(3)(b) substituted (with effect in accordance with Sch. 7 para. 34 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 7 para. 27\(a\)](#)
- F9** S. 150A(3A) inserted (with effect in accordance with Sch. 7 para. 34 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 7 para. 27\(b\)](#)
- F10** Words in s. 150A(4)(a) substituted (with effect in accordance with Sch. 13 para. 24(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(2\)](#)
- F11** Words in s. 150A(4) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(4\)](#) (with Sch. 2)
- F12** Words in s. 150A(5) substituted (with effect in accordance with Sch. 13 para. 24(8)(a) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(3\)](#)

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- F13** S. 150A(6)(6A) substituted for s. 150A(6) (with effect in accordance with Sch. 13 para. 24(8)(b) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(4\)](#)
- F14** Word in s. 150A(6)(b) omitted (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 20\(3\)\(a\)](#)
- F15** S. 150A(6)(ba) inserted (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 20\(3\)\(a\)](#)
- F16** Words in s. 150A(6)(c) substituted (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 20\(3\)\(b\)](#)
- F17** Word in s. 150A(6) inserted (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 20\(3\)\(c\)](#)
- F18** Ss. 150A(8A)-(8C) inserted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 13 para. 2\(4\)](#)
- F19** Word in s. 150A(8A)(a) repealed (with effect in accordance with Sch. 13 para. 24(8)(c) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(5\)](#), [Sch. 27 Pt. III\(14\)](#)
- F20** Words in s. 150A(8B)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(5\)](#) (with [Sch. 2](#))
- F21** Words in s. 150A(8C) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(6\)](#) (with [Sch. 2](#))
- F22** S. 150A(8D) inserted (with effect in accordance with Sch. 13 para. 24(8)(d) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(6\)](#)
- F23** Words in s. 150A(8D) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(7\)\(a\)](#) (with [Sch. 2](#))
- F24** S. 150A(8D)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(7\)\(b\)](#) (with [Sch. 2](#))
- F25** Words in s. 150A(9)(a) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 54](#)
- F26** Words in s. 150A(10) substituted (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 20\(4\)](#)
- F27** S. 150A(10A) inserted (with effect in accordance with Sch. 13 para. 24(8)(e) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 24\(7\)](#)
- F28** Words in s. 150A(10A) inserted (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 20\(5\)](#)
- F29** Words in s. 150A(10A) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(8\)](#) (with [Sch. 2](#))
- F30** Words in s. 150A(11) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(9\)\(a\)](#) (with [Sch. 2](#))
- F31** Words in s. 150A(11) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(9\)\(b\)](#) (with [Sch. 2](#))
- F32** S. 150A(13) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 311\(10\)](#) (with [Sch. 2](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)