



Income Tax Act 2007

2007 CHAPTER 3

PART 5

ENTERPRISE INVESTMENT SCHEME

CHAPTER 6

WITHDRAWAL OR REDUCTION OF EIS RELIEF

Value received by investor

213 Value received by the investor

- (1) This section applies if the investor receives any value from the issuing company at any time in period C relating to the relevant shares.
- (2) Any EIS relief attributable to the shares 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 - (b) in any other case, be withdrawn.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—^{F1}

$$R \times \text{EISR}$$

where—

R is the amount of the value received by the investor, and
[^{F2}EISR is the EIS rate.]

- (3) This section is subject to the following sections—
 - (a) section 214 (value received: receipts of insignificant value),
 - (b) section 218 (value received where there is more than one issue of shares),

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Value received by investor. (See end of Document for details)

- (c) section 219 (value received where part of share issue treated as made in previous tax year),
- (d) section 220 (cases where maximum EIS relief not obtained),
- (e) section 221 (receipts of value by and from connected persons etc), and
- (f) section 222 (receipt of replacement value).

Sections 218 to 220 are to be applied in the order in which they appear in this Part.

- (4) Value received is to be ignored, for the purposes of this section, to the extent to which EIS relief attributable to the shares has already been withdrawn or reduced on its account.
- (5) For the purposes of this section and sections 214 to 223, an individual who acquires any relevant shares on such a transfer as is mentioned in section 245 (spouses or civil partners) is treated as the investor.

Textual Amendments

- F1** Formula in s. 213(2) amended (21.7.2008 with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 16\(a\)](#)
- F2** Words in s. 213(2) substituted (21.7.2008 with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 16\(b\)](#)

214 Value received: receipts of insignificant value

- (1) Section 213(2) does not apply if the receipt of value is a receipt of insignificant value.

This is subject to subsection (2).

- (2) If—
 - (a) value is received (“the relevant receipt”) by the investor from the issuing company at any time in period C relating to the relevant shares,
 - (b) the investor has received from the issuing company one or more receipts of insignificant value at a time or times—
 - (i) during that period, but
 - (ii) not later than the time of the relevant receipt, and
 - (c) the total amount of the value of the receipts within paragraph (a) and (b) is not an amount of insignificant value,

the investor is treated for the purposes of this Chapter as if the relevant receipt had been a receipt of an amount of value equal to that total amount.

- (3) A receipt does not fall within subsection (2)(b) if it has previously formed part of a total amount falling within subsection (2)(c).

215 Meaning of “receipts of insignificant value”

- (1) This section applies for the purposes of section 214.
- (2) “A receipt of insignificant value” means a receipt of an amount of insignificant value, that is, an amount of value which—
 - (a) is not more than £1,000, or

Status: Point in time view as at 21/07/2008.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Value received by investor. (See end of Document for details)

- (b) if it is more than £1,000, is insignificant in relation to the amount subscribed by the investor for the relevant shares.

This is subject to subsection (3).

- (3) If 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,repayment arrangements are in existence, no amount of value received by the investor is treated as a receipt of insignificant value.
- (4) For this purpose “repayment arrangements” means arrangements which provide for the investor to receive, or to be entitled to receive, any value from the issuing company at any time in period C relating to the relevant shares.
- (5) For the purposes of this section—
 - (a) the references to the investor include references to any person who at any time in period C relating to the relevant shares is an associate of the investor (whether or not that person is such an associate at the material time), and
 - (b) the reference in subsection (4) to the issuing company includes a reference to a person who at any time in period C relating to the relevant shares is connected with that company (whether or not that person is so connected at the material time).

216 When value is received

- (1) This section applies for the purposes of sections 213 (value received by the investor) and 218 (value received where there is more than one issue of shares).
- (2) The investor receives value from the issuing company at any time when the issuing company—
 - (a) repays, redeems or repurchases any of its share capital or securities which belong to the investor or makes any payment to the investor for giving up the investor's right to any of the issuing company's share capital or any security on its cancellation or extinguishment,
 - (b) repays, in pursuance of any arrangements for or in connection with the acquisition of the shares in respect of which EIS relief is claimed, any debt owed to the investor other than a debt which was incurred by the company—
 - (i) on or after the date of issue of those shares, and
 - (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date,
 - (c) makes to the investor any payment for giving up on its extinguishment the investor's right to any debt, other than a debt in respect of a repayment of the kind mentioned in section 168(2)(a) or (f) (ignoring of certain expenses or remuneration) or an ordinary trade debt,
 - (d) releases or waives any liability of the investor to the issuing company or discharges or undertakes to discharge any liability of the investor to a third person,
 - (e) makes a loan or advance to the investor which has not been repaid in full before the issue of the shares in respect of which EIS relief is claimed,
 - (f) provides a benefit or facility for the investor,

Status: Point in time view as at 21/07/2008.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Value received by investor. (See end of Document for details)

- (g) transfers an asset to the investor for no consideration or for consideration less than its market value or acquires an asset from the investor for consideration greater than its market value, or
 - (h) makes to the investor any other payment except—
 - (i) a payment of a kind mentioned in any of the provisions of section 168(2) (ignoring of certain payments), or
 - (ii) a payment in discharge of an ordinary trade debt.
- (3) For the purposes of subsection (2)(d) the issuing company is to be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (4) For the purposes of subsection (2)(e) the following is to be treated as if it were a loan made by the issuing company to the investor—
- (a) the amount of any debt (other than an ordinary trade debt) incurred by the investor to the issuing company, and
 - (b) the amount of any debt due from the investor to a third party which has been assigned to the issuing company.
- (5) The investor also receives value from the issuing company if—
- (a) in respect of ordinary shares held by the investor any payment or asset is received in a winding up or in connection with a dissolution of the company, and
 - (b) the winding up or dissolution falls within section 182(4) (no tax avoidance).
- (6) The investor also receives value from the issuing company if any person who would, for the purposes of section 163, be treated as connected with the company—
- (a) purchases any of its share capital or securities which belong to the investor, or
 - (b) makes any payment to the investor for giving up any right in relation to any of the company's share capital or securities.
- (7) If because of the investor's disposal of shares in a company any EIS relief attributable to those shares is withdrawn or reduced under section 209, the investor is not to be treated as receiving value from the company in respect of the disposal.
- (8) The investor is not to be treated as receiving value from the issuing company merely because of the payment to the investor, or any associate of the investor, of any remuneration for services rendered to that company as a director if the remuneration is reasonable remuneration.
- (9) Section 167(3) (director also an employee) applies for the purposes of subsection (8) as it applies for the purposes of section 167, and the reference in that subsection to the payment of remuneration includes the provision of any benefit or facility.
- (10) In this section “ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business if any credit given—
- (a) is for not more than 6 months, and
 - (b) is not longer than that normally given to customers of the person carrying on the trade or business.

Status: Point in time view as at 21/07/2008.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Value received by investor. (See end of Document for details)

217 The amount of value received

In a case falling within a provision listed in column 1 of the following table, the amount of value received for the purposes of sections 213 and 218 is given by the corresponding entry in column 2 of the table.

<i>Provision</i>	<i>The amount of value received</i>
Section 216(2)(a), (b) or (c)	The amount received by the investor or, if greater, the market value of the shares, securities or debt
Section 216(2)(d)	The amount of the liability
Section 216(2)(e)	The amount of the loan or advance, less the amount of any repayment made before the issue of the relevant shares
Section 216(2)(f)	The cost to the issuing company of providing the benefit or facility, less any consideration given for it by the investor
Section 216(2)(g)	The difference between the market value of the asset and the consideration (if any) given for it
Section 216(2)(h)	The amount of the payment
Section 216(5)	The amount of the payment or the market value of the asset
Section 216(6)	The amount received by the investor or, if greater, the market value of the shares or securities

218 Value received where there is more than one issue of shares

- (1) This section applies if—
 - (a) two or more issues of shares in the issuing company have been made to the investor which include shares in respect of which the investor obtains EIS relief, and
 - (b) value is received by the investor at any time in the applicable periods for two or more of those issues.
- (2) Section 213(2) has effect in relation to the shares included in each of the issues referred to in subsection (1)(b) as if the amount of value referred to as “R” were reduced by multiplying it by the fraction—

Status: Point in time view as at 21/07/2008.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Value received by investor. (See end of Document for details)

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

where—

A is the amount on which the investor obtains EIS relief in respect of the shares included in the issue in question, and

B is the sum of that amount and the corresponding amount or amounts in respect of the other issue or issues.

- (3) For the purposes of subsection (1) “the applicable period” for an issue of shares is period C in relation to those shares.

219 Value received where part of share issue treated as made in previous tax year

- (1) This section applies if—
- (a) section 213(2) applies to an issue of shares, and
 - (b) section 158(1) and (2) (form and amount of EIS relief) applies in the case of that issue as if part of the issue had been issued in a previous tax year.
- (2) This subsection explains how the calculation under section 213(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—

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

where—

A is the amount on which the investor 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.

Status: Point in time view as at 21/07/2008.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Value received by investor. (See end of Document for details)

In calculating amounts X1 and X2, apply section 220 if appropriate but do not apply section 218.

Step 3

Add amounts X1 and X2 together.

The result is the required amount.

220 Cases where maximum EIS relief not obtained

- (1) If the investor's liability to income tax is reduced for any tax year in respect of any issue of shares and—
- (a) the amount of the reduction (“A”), is less than
 - (b) the amount (“B”) which is equal to income tax at the [^{F3}EIS rate] on the amount on which the investor claims EIS relief in respect of the shares,
- section 213(2) has effect in relation to any value received as if the amount referred to as “R” were reduced by multiplying it by the fraction—

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

- (2) 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 subsection (1) as “A” is to be treated for the purposes of that subsection as the amount that it would have been without that reduction.
- (3) Subsection (2) 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).

Textual Amendments

- F3** Words in s. 220(1)(b) substituted (21.7.2008 with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 17](#)

221 Receipts of value by and from connected persons etc

In sections 213, 214 and 216 to 218—

- (a) any reference to a payment or transfer to the investor includes a reference to a payment or transfer made to the investor indirectly or to the investor's order or for the investor's benefit,
- (b) any reference to the investor includes a reference to an associate of the investor, and

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Value received by investor. (See end of Document for details)

- (c) any reference to the issuing company includes a reference to a person who at any time in period A relating to the relevant shares is connected with that company (whether or not that person is so connected at the material time).

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, 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

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- 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—
- (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).

223 Section 222: supplementary

- (1) The receipt of the replacement value by the original supplier is ignored for the purposes of section 222(1) to the extent to which it has previously been set (under that section) against a receipt of value to prevent any reduction or withdrawal of EIS relief under section 213.
- (2) The receipt of the replacement value by the original supplier (“the event”) is ignored for the purposes of section 222 if—

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Value received by investor. (See end of Document for details)

- (a) the event occurs before period C relating to the relevant shares,
- (b) if the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or
- (c) if an appeal has been brought by the investor against an assessment to withdraw or reduce any EIS relief attributable to the relevant shares because of the receipt of the original value, the event occurs more than 60 days after the day on which the amount of relief which falls to be withdrawn has been finally determined.

But nothing in section 222 or this section requires the replacement value to be received after the original value.

- (3) This subsection applies if—
 - (a) the receipt of the replacement value by the original supplier is a qualifying receipt for the purposes of section 222(1), and
 - (b) in consequence of the receipt any receipts of value are ignored for the purposes of section 213 as that section applies in relation to the shares in question or any other shares subscribed for by the investor, and
 - (c) the event which gives rise to the receipt is (or includes) a subscription for shares by—
 - (i) the investor, or
 - (ii) any person who at any time in period C relating to the relevant shares is an associate of the investor (whether or not the person is such an associate at the material time).
- (4) If either of the following applies—
 - (a) subsection (3), and
 - (b) paragraph 13C(3) of Schedule 5B to TCGA 1992 (which makes corresponding provision in relation to relief under that Schedule in respect of re-investment under EIS),

the person who subscribes for the shares is not to be eligible for any EIS relief in relation to those shares or any other shares in the same issue.
- (5) In this section “the original recipient”, “the original supplier” and “replacement value” have the same meaning as in section 222.

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Point in time view as at 21/07/2008.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading:
Value received by investor.