



Income Tax Act 2007

2007 CHAPTER 3

PART 5

ENTERPRISE INVESTMENT SCHEME

CHAPTER 7

WITHDRAWAL OR REDUCTION OF EIS RELIEF: PROCEDURE

Assessments and appeals

235 Assessments for the withdrawal or reduction of EIS relief

If any EIS relief which has been obtained falls to be withdrawn or reduced under Chapter 6, it must be withdrawn or reduced by the making of an assessment to income tax for the tax year for which the relief was obtained.

236 Appeals against section 234(3)(b) notices

- (1) For the purposes of the provisions of TMA 1970 relating to appeals, the giving of notice by an officer of Revenue and Customs under section 234(3)(b) is taken to be a decision disallowing a claim by the issuing company.
- (2) If any issue has been determined on an appeal brought by virtue of paragraph 1A(6) of Schedule 5B to TCGA 1992 (appeal against notice that shares never have been, or have ceased to be, eligible shares), the determination is conclusive for the purposes of any appeal brought by virtue of subsection (1) on which that issue arises.

237 Time limits for assessments

- (1) An officer of Revenue and Customs may ^{F1}... —

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- (a) make an assessment for withdrawing or reducing the EIS relief attributable to any of the relevant shares, or
 - (b) give a notice under section 234(3)(b),
 [F2]at any time not more than] 6 years after the end of the relevant tax year.
- (2) In subsection (1) “the relevant tax year” means—
- (a) the tax year in which the time mentioned in section 175(3) (the use of money raised requirement) falls, or
 - (b) the tax year in which the event which causes the EIS relief to be withdrawn or reduced occurs,
- whichever is the later.
- (3) Subsection (1) is without prejudice to section [F3]36(1A)] of TMA 1970 [F4](loss of tax brought about deliberately etc)].

Textual Amendments

- F1** Word in s. 237(1) omitted (1.4.2010) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 59\(2\)\(a\)](#); [S.I. 2009/403](#), art. 2(2) (with art. 10)
- F2** Words in s. 237(1) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 59\(2\)\(b\)](#); [S.I. 2009/403](#), art. 2(2) (with art. 10)
- F3** Word in s. 237(3) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 59\(3\)\(a\)](#); [S.I. 2009/403](#), art. 2(2) (with art. 10)
- F4** Words in s. 237(3) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 59\(3\)\(b\)](#); [S.I. 2009/403](#), art. 2(2) (with art. 10)

238 Cases where assessment not to be made

- (1) No assessment for withdrawing or reducing EIS relief in respect of shares issued to an individual may be made because of an event occurring after the individual's death.
- (2) Subsection (3) applies if an individual has, by a disposal or disposals to which section 209(3) applies, disposed of all shares which—
 - (a) have been issued to the individual by the issuing company, and
 - (b) are shares—
 - (i) to which EIS relief is attributable, or
 - (ii) in relation to which period A has not come to an end.
- (3) No assessment for withdrawing or reducing EIS relief in respect of those shares may be made because of any subsequent event unless the event occurs at a time when the individual is connected with the company within the meaning of section 166.

Interest

239 Date from which interest is chargeable

- (1) In its application to an assessment made by virtue of section 235 in the case of relief withdrawn or reduced by virtue of a provision listed [F5]in subsection (2)], section 86 of TMA 1970 (interest on overdue income tax) has effect as if the relevant date were [F6]31 January next following the tax year for which the assessment is made].

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[^{F8}(2) The provisions are—
section 163,
section 164,
section 173A,
any of [^{F9}sections 180A to 188],
section 209,
section 212(1),
section 213,
section 224,
section 232, and
section 233.]

Textual Amendments

- F5** Words in s. 239(1) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 105\(2\)\(a\)](#)
F6 Words in s. 239(1) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 105\(2\)\(b\)](#)
F7 S. 239(1) Table omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\), s. 105\(2\)\(c\)](#)
F8 S. 239(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 105\(3\)](#)
F9 Words in s. 239(2) substituted (retrospective to 6.4.2012) by [Finance Act 2012 \(c. 14\), Sch. 7 paras. 18, 25](#)

Information

240 Information to be provided by the investor

- (1) This section applies if the investor has obtained EIS relief in respect of the relevant shares, and an event occurs as a result of which—
- (a) the investor is not a qualifying investor in relation to the shares,
 - (b) the EIS relief falls to be withdrawn or reduced by virtue of section 164 (no linked loans requirement),
 - (c) the EIS relief falls to be withdrawn or reduced under—
 - (i) section 209 (disposal of shares),
 - (ii) section 211 (call options), or
 - (iii) section 212 (put options), or
 - (d) the EIS relief falls to be withdrawn or reduced under section 213 (receipt of value by the investor), or would fall to be so withdrawn or reduced but for section 222 (receipt of replacement value).
- (2) The investor must within 60 days of coming to know of the event give a notice to an officer of Revenue and Customs containing particulars of the event.
- (3) If the investor—
- (a) is required under this section to give notice of a receipt of value which is within section 213, or would be within that section but for section 222, and
 - (b) has knowledge of any replacement value received (or expected to be received) because of a qualifying receipt,

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the notice must include particulars of that receipt of replacement value (or expected receipt).

- (4) In subsection (3) “qualifying receipt” and “replacement value” are to be read in accordance with section 222.

241 Information to be provided by the issuing company etc

- (1) This section applies if the issuing company has provided an officer of Revenue and Customs with a compliance statement in respect of an issue of shares and an event occurs as a result of which—

- (a) the requirement of section 175 (the use of money raised) is not met in respect of any of the shares included in the issue, or would not be met if EIS relief had been obtained in respect of the shares in question,
- (b) any provision of Chapter 4 has effect to prevent the issuing company being a qualifying company in relation to any of the shares included in the issue, or would have such an effect if EIS relief had been obtained in respect of the shares in question, or
- (c) any provision of Chapter 6 which is listed in subsection (2) has effect to cause any EIS relief attributable to any of the shares included in the issue to be withdrawn or reduced, or—
 - (i) would have such an effect if EIS relief had been obtained in respect of the shares in question, or
 - (ii) in the case of section 213, would have such an effect but for section 222 (receipt of replacement value).

- (2) The provisions are—

- (a) section 213 (value received by the investor),
- (b) section 224 (repayments etc of share capital to other persons),
- (c) section 232 (acquisition of a trade or trading assets), and
- (d) section 233 (acquisition of share capital).

- (3) If this section applies—

- (a) the issuing company, and
- (b) any person connected with the issuing company who has knowledge of the matters mentioned in subsection (1),

must give a notice to an officer of Revenue and Customs containing particulars of the event.

- (4) Any notice required to be given by the issuing company under subsection (3)(a) must be given—

- (a) within 60 days of the event, or
- (b) if the event is a receipt of value within section 216(2) from a person connected with the company (see section 221), within 60 days of the company coming to know of the event.

- (5) Any notice required to be given by a person under subsection (3)(b) must be given within 60 days of the person coming to know of the event.

- (6) If a person—

- (a) is required under this section to give notice of a receipt of value which is within section 213, or would be within that section but for section 222, and

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(b) has knowledge of any replacement value received (or expected to be received) because of a qualifying receipt,
the notice must include particulars of that receipt of replacement value (or expected receipt).

(7) In subsection (6) “qualifying receipt” and “replacement value” are to be read in accordance with section 222.

242 Power to require information where section 240 or 241 applies or could have applied

(1) This section applies if an officer of Revenue and Customs has reason to believe that a person—

- (a) has not given a notice which the person is required to give under section 240 or 241 in respect of any event,
- (b) has given or received value within the meaning of section 216(2) or (6) which, but for the fact that the amount given or received was an amount of insignificant value, would have triggered a requirement to give such a notice, or
- (c) has made or received any repayment within the meaning given by section 224(7) which, but for the fact that it falls to be ignored for the purposes of section 224 by virtue of section 225(1), would have triggered a requirement to give a notice under section 241.

(2) The officer may by notice require the person concerned to supply the officer, within such time as the officer may specify in the notice, with such information relating to the event as the officer may reasonably require for the purposes of this Part.

(3) The period specified in a notice under subsection (2) must be at least 60 days.

(4) In subsection (1)(b) the reference to an amount of insignificant value is construed in accordance with section 215(2).

243 Power to require information in other cases

(1) Subsection (2) applies if EIS relief is claimed in respect of shares in a company, and an officer of Revenue and Customs has reason to believe that it may not be due because of any such arrangement or scheme as is mentioned in—

- (a) section 165 or 182(2) or (4) (no tax avoidance),
- (b) section 171 (persons subscribing for shares under certain arrangements),
- (c) section 176(4) or (5), 183(6) or 191(3), (4) or (5) (winding up, administration etc),
- (d) section 177(1) (no pre-arranged exits), ^{F10}...
- [^{F11}(da) section 178A (no disqualifying arrangements), or]
- (e) section 185(1) or (2), 190(1) or 191(2) (conditions ceasing to be met).

The reference in paragraph (c) to subsections (3), (4) and (5) of section 191 is to be read as including those subsections as applied by section 190(2).

(2) The officer may by notice require any person concerned to supply the officer within such time as may be specified in the notice with—

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- (a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed, and
 - (b) such other information as the officer may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.
- (3) The period specified in a notice under subsection (2) must be at least 60 days.
- (4) For the purposes of subsection (2), in a case falling within a provision listed in column 1 of the following table, the person concerned is given by the corresponding entry in column 2 of the table.

<i>Provision</i>	<i>The person concerned</i>
Subsection (1)(a)	The claimant, the company and any person controlling the company
Subsection (1)(b)	The claimant
Subsection (1)(c)	The claimant, the company, any other company in question and any person controlling the company or any other company in question
Subsection (1)(d)	The claimant, the company and any person connected with the company
[^{F12} Subsection (1)(da)]	The claimant, the company, any person controlling the company and any person whom an officer of Revenue and Customs has reason to believe may be a party to the arrangements in question]
Subsection (1)(e)	The company and any person controlling the company

References in this subsection to the claimant include references to any person to whom the claimant appears to have made such a transfer as is mentioned in section 245 (spouses or civil partners) of any of the shares in question.

- (5) If EIS relief has been obtained in respect of shares in a company—
- (a) any person who receives from the company any payment or asset which may constitute value received (by the person or another) for the purposes of section 213, and
 - (b) any person on whose behalf such a payment or asset is received,
- must, if so required by an officer of Revenue and Customs, state whether the payment or asset so received is received on behalf of any other person and, if so, the name and address of that other person.
- (6) If EIS relief has been claimed in respect of shares in a company—
- (a) any person who holds or has held shares in the company, and
 - (b) any person on whose behalf any such shares are or were held,
- must, if so required by an officer of Revenue and Customs, state whether the shares so held are or were held on behalf of any other person and, if so, the name and address of that other person.

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Textual Amendments

- F10** Word in s. 243(1)(d) omitted (17.7.2012) (with effect in accordance with Sch. 7 para. 22 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 7 para. 19\(a\)](#)
- F11** S. 243(1)(da) inserted (17.7.2012) (with effect in accordance with Sch. 7 para. 22 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 7 para. 19\(a\)](#)
- F12** Words in s. 243(4) inserted (17.7.2012) (with effect in accordance with Sch. 7 para. 22 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 7 para. 19\(b\)](#)

244 Obligations of secrecy

No obligation of secrecy imposed by statute or otherwise prevents an officer of Revenue and Customs from disclosing to a company that EIS relief has been obtained or claimed in respect of a particular number or proportion of its shares.

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