



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 4

#### LOSS RELIEF

### CHAPTER 6

#### LOSSES ON DISPOSAL OF SHARES

##### *Limits on share loss relief and mixed holdings*

#### **148 Disposal of shares forming part of mixed holding**

- (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 or a 1982 holding, in accordance with subsection (5),
  - (b) in the case of a mixed holding which includes any of the following—

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*Status: This is the original version (as it was originally enacted).*

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- (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respect of which relief has been given under Chapter 3 of Part 7 of ICTA (business expansion scheme) and has not been withdrawn,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 or 1982 holding as relating to shares acquired later rather than earlier.
- (6) For the purposes of subsection (3)(b), the question is to be determined—
  - (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” and “1982 holding” have the same meaning as in section 147.