



Income Tax Act 2007

2007 CHAPTER 3

[^{F1}PART 5A

SEED ENTERPRISE INVESTMENT SCHEME

CHAPTER 6

WITHDRAWAL OR REDUCTION OF SEIS RELIEF

Value received by investor

[^{F1}257FH] **When value is received**

- (1) This section applies for the purposes of sections 257FE (value received by the investor) and 257FJ (value received where there is more than one issue).
- (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 SEIS 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 payment of the kind mentioned in subsection (3)(a) or (f) or an ordinary trade debt,

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Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Section 257FH. (See end of Document for details)

- (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 SEIS relief is claimed,
 - (f) provides a benefit or facility for the investor,
 - (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) an excluded payment, or
 - (ii) a payment in discharge of an ordinary trade debt.
- (3) “Excluded payment” means—
- (a) any payment or reimbursement of travelling or other expenses, exclusively and necessarily incurred by the investor or an associate of the investor in the performance of the investor's or associate's duties as a director,
 - (b) any interest which represents no more than a reasonable commercial return on money lent to the issuing company or any person connected with that company,
 - (c) any dividend or other distribution which does not exceed a normal return on the investment,
 - (d) any payment for the supply of goods which does not exceed their market value,
 - (e) any payment of rent for any property occupied by the issuing company or a person connected with that company which does not exceed a reasonable and commercial rent for the property, and
 - (f) any necessary and reasonable remuneration which meets the conditions in subsection (4).
- (4) The conditions are that the remuneration—
- (a) is paid for services rendered to the issuing company or a person connected with that company in the course of a trade or profession (not being secretarial or managerial services or services of a kind provided by the person to whom they are rendered), and
 - (b) is taken into account in calculating for tax purposes the profits of that trade or profession.
- (5) 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.
- (6) 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.
- (7) The investor also receives value from the issuing company if—

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- (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 257DB(4) (no tax avoidance).
- (8) The investor also receives value from the issuing company if a person within subsection (9)—
- (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.
- (9) Those persons are—
- (a) any person who has a substantial interest in the company within the meaning of section 257BB;
 - (b) any employee of the issuing company;
 - (c) any director of the issuing company.
- (10) If because of the investor's disposal of shares in a company any SEIS relief attributable to those shares is withdrawn or reduced under section 257FA, the investor is not to be treated as receiving value from the company in respect of the disposal.
- (11) 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.
- (12) For the purposes of subsection (11)—
- (a) the reference in that subsection to the payment of remuneration includes a reference to the provision of any benefit or facility, and
 - (b) in the case of an individual who is both a director and an employee of a company, the reference in that subsection to services rendered to that company as a director includes a reference to services rendered to that company as an employee.
- (13) In this section—
- (a) “ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business if any credit given—
 - (i) is for not more than 6 months, and
 - (ii) is not longer than that normally given to customers of the person carrying on the trade or business, and
 - (b) any reference to a payment to an individual includes a payment made to the individual indirectly or to the individual's order or for the individual's benefit.]

Textual Amendments

- F1** Pt. 5A inserted (17.7.2012) (with effect in accordance with Sch. 6 para. 24(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 1](#)

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