



# Income Tax Act 2007

## 2007 CHAPTER 3

### [<sup>F1</sup>PART 5A

#### SEED ENTERPRISE INVESTMENT SCHEME

### [<sup>F1</sup>CHAPTER 8

#### SUPPLEMENTARY AND GENERAL

#### 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](#)

#### *Disposals of shares*

#### **257H Transfers between spouses or civil partners**

- (1) This section applies if—
- shares to which an amount of SEIS relief is attributable were issued to an individual (“A”),
  - A transferred the shares to another individual (“B”) during their lives,
  - A was married to, or was the civil partner of, B at the time of the transfer, and
  - section 257FA (disposal of shares) does not apply to the transfer.
- (2) This Part has effect, in relation to any subsequent disposal or other event, as if—
- B were the individual who had subscribed for the shares,
  - the amount that B had subscribed for the shares were the amount that A had subscribed for them,
  - B's liability to income tax had been reduced in respect of the shares for the same tax year as that for which A's was so reduced,

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- (d) the amount by which B's liability to income tax had been reduced in respect of the shares were the same as that by which A's liability to income tax had been so reduced, and
  - (e) that amount of SEIS relief had continued to be attributable to the shares despite the transfer.
- (3) If the amount of SEIS relief attributable to the shares had been reduced before the relief was obtained by A—
- (a) this Part has effect, in relation to any subsequent disposal or other event, as if the amount of SEIS relief attributable to the shares transferred to B had been correspondingly reduced before the relief was obtained by B, and
  - (b) sections 257FB(3) and 257FL(2) apply in relation to B as they would have applied in relation to A.
- (4) If, because of any such disposal or other event, an assessment for reducing or withdrawing SEIS relief is to be made, the assessment is to be made on B.

#### **257HA Identification of shares on a disposal**

- (1) The rules in subsections (2) and (3) are for determining which shares of any class are treated as disposed of for the purposes of—
- (a) section 257FA (disposal of shares), or
  - (b) section 257H (spouses or civil partners),
- if the investor disposes of some but not all of the shares of that class which the investor holds in a company.
- (2) Shares acquired on an earlier day are treated as disposed of before shares acquired on a later day.
- (3) Shares acquired on the same day are treated as disposed of in the following order—
- (a) first any to which no SEIS relief is attributable,
  - (b) next any to which SEIS relief (but not SEIS re-investment relief) is attributable, and
  - (c) next any to which SEIS relief and SEIS re-investment relief are attributable.
- (4) Any shares to which SEIS relief is attributable and which were transferred to an individual as mentioned in section 257H are treated for the purposes of subsections (2) and (3) as acquired by the individual on the day on which they were issued.
- (5) In a case to which section 127 of TCGA 1992 applies (including the case where that section applies by virtue of an enactment relating to chargeable gains), shares included in the new holding are treated for the purposes of subsections (2) and (3) as acquired when the original shares were acquired.
- (6) In this section—
- “new holding” and “original shares” have the same meaning as in section 127 of TCGA 1992 (or, as the case may be, that section as applied by the enactment concerned);
  - “SEIS re-investment relief” means relief under Schedule 5BB to TCGA 1992.

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### *Acquisition of issuing company*

#### **257HB Continuity of SEIS relief where issuing company is acquired by new company**

- (1) This section applies if—
- (a) a company (“the new company”) in which the only issued shares are subscriber shares acquires all the shares (“old shares”) in another company (“the old company”),
  - (b) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company,
  - (c) the consideration for the new shares of each description consists wholly of old shares of the corresponding description,
  - (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of and in proportion to their holdings,
  - (e) at some time before the issue of the new shares—
    - (i) the old company issued shares which meet the requirements of section 257CA(2), and
    - (ii) a compliance certificate in respect of those shares was issued by that company for the purposes of subsection (1) of section 257EB and in accordance with section 257EC, and
  - (f) before the issue of the new shares the Commissioners for Her Majesty's Revenue and Customs have, on the application of the new company or the old company, notified that company that they are satisfied that the exchange of shares—
    - (i) will be effected for genuine commercial reasons, and
    - (ii) will not form part of any such scheme or arrangements as are mentioned in section 137(1) of TCGA 1992 (schemes with avoidance purposes).
- In this subsection references to shares, except in the expressions “subscriber shares” and “shares which meet the requirements of section 257CA(2)”, include securities.
- (2) Subsection (2) of section 138 of TCGA 1992 (procedure for advance clearance) applies for the purposes of subsection (1)(f) as it applies for the purposes of subsection (1) of that section.
- (3) For the purposes of this Part—
- (a) the exchange of shares is not regarded as involving any disposal of the old shares or any acquisition of the new shares, and
  - (b) any SEIS relief which is attributable to any old shares is attributable instead to the new shares for which they are exchanged.
- (4) Nothing in section 257DG (the control and independence requirement) applies in relation to such an exchange of shares, or shares and securities, as is mentioned in subsection (1), or arrangements with a view to such an exchange.
- (5) For the purposes of this section old shares and new shares are of a corresponding description if, on the assumption that they were shares in the same company, they would be of the same class and carry the same rights.
- (6) References in sections 257HC and 257HD to “old shares”, “new shares”, “the old company” and “the new company” are to be read in accordance with this section.

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### **257HC Carry over of obligations etc where SEIS relief attributed to new shares**

- (1) This section applies if, under section 257HB, any SEIS relief which is attributable to any old shares becomes attributable instead to any new shares.
- (2) This Part has effect as if anything which under—
  - (a) section 257EB(1) (entitlement to claim),
  - (b) section 257FR(3) (relief subsequently found not to be due), or
  - (c) sections 257GF to 257GH (information to be provided),
 has been done, or is required to be done, by or in relation to the old company had been done, or were required to be done, by or in relation to the new company.
- (3) Any appeal brought by the old company against a notice under section 257FR(3)(b) may be prosecuted by the new company as if it had been brought by that company.

### **257HD Substitution of new shares for old shares**

- (1) Subsection (2) applies if, in the case of any new shares held by an individual to which SEIS relief becomes attributable under section 257HB, the old shares for which they were exchanged were subscribed for by and issued to the individual.
- (2) This Part has effect as if—
  - (a) the new shares had been subscribed for by the individual at the time when, and for the amount for which, the old shares were subscribed for by the individual,
  - (b) the new shares had been issued to the individual by the new company at the time when the old shares were issued to the individual by the old company,
  - (c) the claim for SEIS relief made in respect of the old shares had been made in respect of the new shares, and
  - (d) the individual's liability to income tax had been reduced in respect of the new shares for the same tax year as that for which the individual's liability was so reduced in respect of the old shares.
- (3) Subsection (4) applies if, in the case of any new shares held by an individual to which SEIS relief becomes so attributable under section 257HB, the old shares for which they were exchanged were transferred to the individual as mentioned in section 257H.
- (4) This Part has effect in relation to any subsequent disposal or other event as if—
  - (a) the new shares had been subscribed for by the individual at the time when, and for the amount for which, the old shares were subscribed for,
  - (b) the new shares had been issued by the new company at the time when the old shares were issued by the old company,
  - (c) the claim for SEIS relief made in respect of the old shares had been made in respect of the new shares, and
  - (d) the individual's liability to income tax had been reduced in respect of the new shares for the same tax year as that for which the liability of the individual who subscribed for the old shares was so reduced in respect of those shares.

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### *Nominees etc*

#### **257HE Nominees and bare trustees**

- (1) Shares subscribed for, issued to, held by or disposed of for an individual by a nominee are treated for the purposes of this Part as subscribed for, issued to, held by or disposed of by the individual.
- (2) If shares have been issued to a bare trust for two or more beneficiaries, this Part has effect (with the necessary modifications) as if—
  - (a) each beneficiary had subscribed as an individual for all of those shares, and
  - (b) the amount subscribed by each beneficiary was equal to the total amount subscribed on the issue of those shares divided by the number of beneficiaries.
- (3) In subsection (2) “shares” means shares which meet the requirements of section 257CA(2).

### *Interpretation*

#### **257HF Meaning of “new qualifying trade”**

- (1) For the purposes of this Part a qualifying trade carried on by the issuing company or a qualifying 90% subsidiary of that company (“the relevant company”) is a “new qualifying trade” if (and only if)—
  - (a) the trade does not begin to be carried on (whether by the relevant company or any other person) before the [<sup>F2</sup>three] year pre-investment period, and
  - (b) at no time before the relevant company begins to carry on the trade was any other trade being carried on by the issuing company or by any company that was a 51% subsidiary of the issuing company at the time in question.
- (2) In this section—

“qualifying trade” has the same meaning as in Part 5 (see sections 189 and 192 to 200);

[<sup>F3</sup>“three year pre-investment period” means the period of 3 years ending immediately before the day on which the relevant shares are issued.]

#### **Textual Amendments**

- F2** Word in s. 257HF(1)(a) substituted (6.4.2023 in relation to shares issued on or after that date) by [Finance Act 2023 \(c. 30\), s. 15\(5\)\(a\)\(7\)](#)
- F3** Words in s. 257HF(2) substituted (6.4.2023 in relation to shares issued on or after that date) by [Finance Act 2023 \(c. 30\), s. 15\(5\)\(b\)\(7\)](#)

#### **257HG Meaning of “qualifying business activity”**

- (1) In this Part “qualifying business activity”, in relation to the issuing company, means—
  - (a) activity A, or
  - (b) activity B,if it is carried on by the company or a qualifying 90% subsidiary of the company.  
This is subject to subsection (3).

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- (2) Activity A is—
- (a) the carrying on of a new qualifying trade which, on the date the relevant shares are issued, the company or a qualifying 90% subsidiary of the company is carrying on, or
  - (b) the activity of preparing to carry on (or preparing to carry on and then carrying on) a new qualifying trade—
    - (i) which, on that date, is intended to be carried on by the company or such a subsidiary, and
    - (ii) which is begun to be carried on by the company or such a subsidiary.
- (3) Activity B is the carrying on of research and development—
- (a) which, on the date the relevant shares are issued, the company or a qualifying 90% subsidiary of the company is carrying on, or which the company or such a subsidiary begins to carry on immediately afterwards, and
  - (b) from which, on that date, it is intended—
    - (i) that a new qualifying trade which the company or such a subsidiary will carry on will be derived, or
    - (ii) that a new qualifying trade which the company or such a subsidiary is carrying on, or will carry on, will benefit.
- (4) For the purposes of subsection (3)(a), when research and development is begun to be carried on by a qualifying 90% subsidiary of the issuing company, any carrying on of the research and development by it before it became such a subsidiary is ignored.
- (5) References in subsection (2)(b)(i) or (3)(b) to a qualifying 90% subsidiary of the issuing company include references to any existing or future company which will be such a subsidiary at any future time.

#### **257HH Meaning of “disposal of shares”**

- (1) In this Part references to a disposal of shares include a reference to a disposal of an interest or right in or over shares.
- (2) An individual is to be treated, for the purposes of this Part, as disposing of any shares which the individual is treated by virtue of section 136 of TCGA 1992 as exchanging for other shares.

#### **257HI Meaning of “issue of shares”**

- (1) In this Part—
  - (a) references (however expressed) to an issue of shares in any company are to such of the shares in the company as are of the same class and issued on the same day, and
  - (b) references (however expressed) to an issue of shares in any company to an individual are to such of the shares in the company as are of the same class and are issued to the individual in one capacity on the same day.
- (2) Subsection (1)(b) has effect subject to sections 257E(6), 257EA(2), 257FB(2) and 257FK(1).

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## 257HJ Minor definitions

(1) In this Part—

“arrangements” includes any scheme, agreement, understanding, transaction or series of transactions (whether or not legally enforceable);

“associate” has the same meaning as in Part 5 (see section 253);

“bonus shares” means shares which are issued otherwise than for payment (whether in cash or otherwise);

“director” is read in accordance with section 452 of CTA 2010;

“EIS relief” means relief under Part 5;

“group” means a parent company and its qualifying subsidiaries;

“group company”, in relation to a group, means the parent company or any of its qualifying subsidiaries;

“ordinary shares” means shares forming part of a company's ordinary share capital;

“parent company” means a company that has one or more qualifying subsidiaries, and “single company” means a company that does not;

“permanent establishment” has the same meaning as in Part 5 (see section 191A);

“qualifying subsidiary” has the same meaning as in Part 5 (see section 191);

“qualifying 90% subsidiary” has the same meaning as in Part 5 (see section 190);

“research and development” has the meaning given by section 1006.

(2) Section 252 (meaning of a company being “in administration” or “in receivership”) applies for the purposes of this Part.

(3) Section 995 (control) does not apply for the purposes of the following provisions—

(a) section 257DG(1)(a),

(b) section 257FP,

(c) section 257FQ,

(d) section 257GH(4);

and in those provisions “control” is to be read in accordance with sections 450 and 451 of CTA 2010.

(4) In this Part—

(a) references in any provision to the reduction of any SEIS relief attributable to any shares include a reference—

(i) to the reduction of the relief to nil, and

(ii) if no relief has yet been obtained, to the reduction of the amount which apart from that provision would be the SEIS relief, and

(b) references to the withdrawal of SEIS relief in respect of any shares are—

(i) to the withdrawal of the SEIS relief attributable to those shares, or

(ii) if no relief has yet been obtained, to ceasing to be eligible for SEIS relief in respect of those shares.

(5) For the purposes of this Part shares in a company are not treated as being of the same class unless they would be so treated if dealt in on a recognised stock exchange.

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- (6) For the purposes of this Part the market value at any time of any asset is the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it.
- (7) In this Part—
- (a) references to SEIS relief obtained by an individual in respect of any shares include a reference to SEIS relief obtained by the individual in respect of those shares at any time after the individual has disposed of them, and
  - (b) references to the withdrawal or reduction of SEIS relief obtained by an individual in respect of any shares include a reference to the withdrawal or reduction of SEIS relief obtained by the individual in respect of those shares at any time.
- (8) In the case of requirements that cannot be met until a future date, references in this Part to requirements being met for the time being are to nothing having occurred to prevent their being met.]



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

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

- s. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)