

INCOME TAX ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Enterprise investment scheme

Overview

Chapter 7: Withdrawal or reduction of EIS relief: procedure

Overview

737. This Chapter deals with the withdrawal or reduction of EIS relief after it has been obtained along with related matters such as information requirements, interest and penalties.

Section 235: Assessments for the withdrawal or reduction of EIS relief

738. This section provides that an assessment must be made to withdraw or reduce EIS relief after it has been obtained. It is based on section 307(1) and (8A) of ICTA.

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

739. This section allows the issuing company to appeal to an independent tribunal in cases where the issuing company disagrees with a notice under section 234(3)(b). It is based on section 307(1B) and (1C) of ICTA.

Section 237: Time limits for assessments

740. This section sets out the time limits for making an assessment or giving a notice under section 234(3)(b). It is based on section 307(2), (5) and (8A) of ICTA.

Section 238: Cases where assessment not to be made

741. This section provides for two cases in which EIS relief will not be withdrawn or reduced. It is based on section 307(3), (4) and (8A) of ICTA.

742. *Subsections (2) and (3)* cover the case of events occurring after the individual has disposed of all the shares, on which reduction of relief is still possible, by way of bargains at arm's length. An assessment cannot be made in relation to such events unless the individual is connected with the issuing company.

743. Subsection (2) limits, compared to the source legislation, the shares that need consideration in deciding whether an assessment cannot be made. *See Change 52* in Annex 1.

Section 239: Date from which interest is chargeable

744. This section gives the date from which interest runs if EIS relief is withdrawn or reduced by an assessment. It is based on sections 299A(2) and 307(6) and (8A) of ICTA.

*These notes refer to the Income Tax Act 2007 (c.3)
which received Royal Assent on 20 March 2007*

745. *Subsection (1)* contains a table setting out the dates that apply. Those dates depend on the provision on which the assessment is based.
746. The table does not include anything derived from section 307(6)(a) and (aa) and (7) of ICTA. Nor is there any material derived from 306(9) of ICTA. Those provisions do not fit with Self Assessment. See *Change 53* in Annex 1.
747. Section 307(8) of ICTA is redundant as it refers to spent legislation and has not been rewritten.

Section 240: Information to be provided by the investor

748. This section requires an investor to provide information to an officer of Revenue and Customs if certain events occur after the investor has obtained EIS relief. It is based on section 310(1), (2A) and (9A) of ICTA.

Section 241: Information to be provided by the issuing company etc

749. This section requires the issuing company, or certain other persons, to provide information to an officer of Revenue and Customs if certain events occur which could withdraw or reduce EIS relief. It is based on section 310(2), (2A) and (9A) of ICTA.
750. *Subsection (1)* differs from section 310 of ICTA as it links the provision of a compliance statement to the requirement to give notice of certain events and it refers to events having an effect “if EIS relief had been obtained”. This follows the approach in paragraph 65(1) of Schedule 15 to FA 2000 (corporate venturing scheme). See *Change 54* in Annex 1.
751. *Subsection (4)* also follows the corporate venturing scheme approach and differs from section 310 of ICTA. It allows the issuing company to provide notice of one particular event within 60 days of coming to know of that event. See *Change 54* in Annex 1.
752. Section 310(3) of ICTA is redundant as it refers to spent legislation and has not been rewritten.

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

753. This section allows an officer to require information in certain cases. It is based on section 310(4) of ICTA.

Section 243: Power to require information in other cases

754. This section provides additional circumstances in which an officer can require information for the purposes of this Part. It is based on section 310(5) to (8) of ICTA.

Section 244: Obligations of secrecy

755. This section allows an officer of Revenue and Customs to give certain information to the issuing company. It is based on section 310(9) of ICTA.