



## **SEED ENTERPRISE INVESTMENT SCHEME; IMPORTANT UPDATE 29 AUGUST 2012**

This document, which includes the Tax Information and Impact Note, draft legislation and Explanatory Note was issued on 6 December 2011 for consultation on the draft legislation.

The revised legislation which was enacted in Finance Act 2012 on 17 July 2012 was substantially different from this draft, the up to date details and guidance about the Seed Enterprise Investment Scheme can be found on the HM Revenue & Custom webpage at <http://www.hmrc.gov.uk/seedeis/index.htm>. The legislation as enacted can be found at <http://www.legislation.gov.uk/ukpga/2012/14/schedule/6/enacted>.

# Seed Enterprise Investment Scheme

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## Who is likely to be affected?

Smaller, early stage companies raising equity, and individuals investing in such companies.

## General description of the measure

This measure introduces a new tax-advantaged venture capital scheme, similar to the Enterprise Investment Scheme (EIS).

The new scheme – the Seed Enterprise Investment Scheme (SEIS) – will be focused on smaller, early stage companies carrying on, or preparing to carry on, a new business in a qualifying trade. The scheme will make available tax relief to investors who subscribe for shares and have a stake of less than 30 per cent in the company.

The relief will apply to investments made on or after 6 April 2012.

For the first year of the new scheme, the Government will offer a capital gains tax (CGT) holiday – gains realised on the disposal of assets in 2012-13 that are invested through SEIS in the same year will be exempt from CGT.

## Policy objective

The measure will support the Government's growth agenda by helping smaller, riskier, early stage UK companies, which may face barriers in raising external finance, to attract investment, making it easier for these companies to be established and to grow.

## Background to the measure

The Government announced at Budget 2011 that it would bring forward proposals to support investment in smaller, early stage companies. A consultation document, *Tax-advantaged venture capital schemes: a consultation* was published on the Treasury website on 6 July 2011 setting out in detail a number of design issues concerning the new scheme. The Government's consultation response document was published on 6 December 2011.

## Detailed proposal

### Operative date

The relief will apply to shares issued on or after 6 April 2012.

### Current law

The EIS legislation is in Part 5 of the Income Tax Act (ITA) 2007.

Sections 150A and 150B of the Taxation of Chargeable Gains Act 1992 make provision for exemption from capital gains tax of gains on disposals of shares in companies within the scope of the EIS. Schedule 5B of that Act provides for deferral of gains on disposals of assets where those gains are reinvested in shares under the EIS.

## Proposed changes

Legislation will be included in Finance Bill 2012 to provide for a new tax advantaged venture capital scheme. This will:

- apply to smaller companies, those with 25 or fewer employees and assets of up to £200,000, which are carrying on or preparing to carry on a new business;
- give income tax relief worth 50 per cent of the amount invested to individual investors with a stake of less than 30 per cent in such companies, including directors who invest in their companies;
- apply to subscriptions for shares, using the same definition of eligible shares as EIS (which it is proposed will be widened in Finance Bill 2012);
- apply to an annual amount of investment of £100,000 per investor, with unused annual amounts able to be carried back to the previous year, as under EIS;
- provide for relief within an overall tax favoured investment limit of £150,000 for the company. To give the greatest degree of flexibility, this will be a cumulative limit, not an annual limit;
- provide for an exemption from CGT on gains on shares within the scope of the SEIS; and,
- provide for an exemption from CGT on gains realised from disposals of assets in 2012-13, where the gains are reinvested through the new SEIS in the same year.

## Summary of impacts

<b>Exchequer impact (£m)</b>	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
	-	nil	-50	-25	-20	-20
	These figures are set out in Table 2.1 of the Autumn Statement and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the Autumn Statement.					
<b>Economic impact</b>	Tax relief is provided to incentivise investment in companies that may face barriers in raising equity finance, including seed level companies. This relief will provide a more generous rate of relief than offered under EIS and will increase the incentive for individuals to invest in small companies and help new businesses to establish. This is likely to increase investment in these companies, which will contribute to wider economic growth.					
<b>Impact on individuals and households</b>	Individual investors will be able to access a higher rate of relief than they would if they invested in qualifying companies under EIS or VCTs from April 2012. The scheme will also encourage individuals to become entrepreneurs with the backing of SEIS investors.					
<b>Equalities impacts</b>	Compared to the self-assessment population, EIS and Venture Capital Trust (VCT) investors tend to be male, located in the south of England and have higher overall income levels; users of SEIS are likely to share these characteristics. No further data is available to suggest that there will be impacts on other groups. From the data available it is therefore envisaged that these changes will not have any further impact on those groups affected by equality legislation.					
<b>Impact on business including civil society organisations</b>	The change should increase the amount of equity investment available to smaller companies (including potentially some in civil society organisations). The relief is claimed by investors rather than the investee companies, therefore there is unlikely to be any additional administrative burden on companies.					

	It is estimated that 300 or more companies will benefit from investment under the scheme in its first year.
<b>Operational impact (£m) (HMRC or other)</b>	It is currently proposed that the scheme will be administered in a similar way to the EIS. There will therefore be a small increase in the work done by the offices that currently administer EIS and VCT work. There will also be some small costs in updating computer systems, forms and guidance.
<b>Other impacts</b>	<p><u>Competition assessment:</u> There will be a positive impact for small early stage companies receiving investment under SEIS, as more individuals will look to invest in such companies. It should not have any impact on competition as it will not affect or limit suppliers' ability to compete.</p> <p><u>Small firms impact test:</u> the proposed reforms are beneficial and will help to increase the provision of equity available to invest in small businesses.</p>

### **Monitoring and evaluation**

Uptake of the reliefs in terms of numbers of investors and investees, amounts of investment and the distribution of levels of investment will be regularly monitored and published. The Government will evaluate the scheme in 2016 to determine whether or not it should continue.

### **Further advice**

If you have any questions about this change, please contact Kathryn Robertson on 020 7147 2589 (email: [kathryn.robertson@hmrc.gsi.gov.uk](mailto:kathryn.robertson@hmrc.gsi.gov.uk)) or Des Ryan on 020 7147 0818 (email: [des.ryan@hmrc.gsi.gov.uk](mailto:des.ryan@hmrc.gsi.gov.uk)).

**1 Seed enterprise investment scheme**

Schedule 1 contains provision about the seed enterprise investment scheme.

## SCHEDULE 1

Section 1

## SEED ENTERPRISE INVESTMENT SCHEME

## PART 1

## THE SCHEME

- 1 In ITA 2007, after Part 5 (enterprise investment scheme) insert –

**“PART 5A**

## SEED ENTERPRISE INVESTMENT SCHEME

**CHAPTER 1**

## INTRODUCTION

*SEIS relief***257A Meaning of “SEIS relief” and commencement**

- (1) This Part provides for SEIS income tax relief (“SEIS relief”), that is, entitlement to tax reductions in respect of amounts subscribed by individuals for shares in companies carrying on new businesses.
- (2) In this Part “SEIS” stands for the seed enterprise investment scheme.
- (3) This Part has effect only in relation to shares issued –
  - (a) on or after 6 April 2012, but
  - (b) before 6 April 2017.
- (4) The Treasury may by order substitute a later date for the date for the time being specified in subsection (3)(b).

**257AA Eligibility for SEIS relief**

An individual (“the investor”) is eligible for SEIS relief in respect of an amount subscribed by the investor on the investor’s own behalf for an issue of shares in a company (“the issuing company”) if –

- (a) the shares (“the relevant shares”) are issued to the investor,
- (b) the investor is a qualifying investor in relation to the relevant shares (see Chapter 2),
- (c) the general requirements (including requirements as to the purpose of the issue of shares and the use of money raised) are met in respect of the relevant shares (see Chapter 3), and
- (d) the issuing company is a qualifying company in relation to the relevant shares (see Chapter 4).

### **257AB Form and amount of SEIS relief**

- (1) If an individual –
  - (a) is eligible for SEIS relief in respect of any amount subscribed for shares, and
  - (b) makes a claim in respect of all or some of the shares included in the issue,the individual is entitled to a tax reduction for the tax year in which the shares were issued (“the current tax year”).  
This is subject to the provisions of this Part.
- (2) The amount of the tax reduction to which the individual is entitled is the amount equal to tax at the SEIS rate for the current year on –
  - (a) the amount or, as the case may be, the sum of the amounts subscribed for shares issued in that year in respect of which the individual is eligible for and claims SEIS relief, or
  - (b) if less, £100,000.
- (3) In this Part “the SEIS rate” means 50%.
- (4) The tax reduction is given effect at Step 6 of the calculation in section 23.
- (5) If in the case of any issue of shares –
  - (a) which are issued in the current year, and
  - (b) in respect of the amount subscribed for which the individual is eligible for SEIS relief,the individual so claims, subsections (1) and (2) apply as if, in respect of such part of that issue as may be specified in the claim, the shares had been issued in the preceding tax year, and the individual’s liability to tax for both tax years is determined accordingly.

### *Miscellaneous*

### **257AC Meaning of “period A” and “period B”**

- (1) This section applies for the purposes of this Part in relation to any shares issued by a company.
- (2) “Period A” means the period –
  - (a) beginning with the incorporation of the company, and
  - (b) ending immediately before the termination date relating to the shares.
- (3) “Period B” means the period –
  - (a) beginning with the issue of the shares, and
  - (b) ending immediately before the termination date relating to the shares.
- (4) In this section “the termination date”, in relation to the shares, means the third anniversary of the date on which the shares are issued.

### **257AD Overview of other Chapters of Part**

In this Part –

- (a) Chapter 5 provides for the attribution of SEIS relief to shares and the making of claims for such relief,
- (b) Chapter 6 provides for SEIS relief to be withdrawn or reduced in the circumstances mentioned in that Chapter,
- (c) Chapter 7 makes provision with respect to the procedure for the withdrawal or reduction of SEIS relief, and
- (d) Chapter 8 contains supplementary and general provisions.

### **257AE CGT reliefs relating to SEIS**

Section 150E of TCGA 1992 makes provision about gains or losses on the disposal of shares to which SEIS relief is attributable.

## **CHAPTER 2**

### THE INVESTOR

#### *Introduction*

### **257B Overview of Chapter**

The investor is a qualifying investor in relation to the relevant shares if the requirements of this Chapter are met as to –

- (a) no employee investors (see section 257BA),
- (b) no substantial interest in the issuing company (see section 257BB),
- (c) no related investment arrangements (see section 257BC),
- (d) no linked loans (see section 257BD), and
- (e) no tax avoidance (see section 257BE).

#### *The requirements*

### **257BA The no employee investors requirement**

- (1) Neither the investor nor an associate of the investor may, at any time during period A, be an employee of the issuing company.
- (2) For this purpose a person is not to be treated as an employee of the issuing company at any time when the person is a director of that company.

### **257BB The no substantial interest in the issuing company requirement**

The investor must not have a substantial interest in the issuing company at any time during period A.

### **257BC The no related investment arrangements requirement**

The investor (“P”) must not subscribe for the relevant shares as part of an arrangement which provides for another person to subscribe for shares in another company in which P, or any other individual who is party to the arrangement, has a substantial interest.

### **257BD The no linked loan requirement**

- (1) No linked loan is to be made by any person, at any time in period A, to the investor or an associate of the investor.

- (2) In this section “linked loan” means any loan which—
  - (a) would not have been made, or
  - (b) would not have been made on the same terms,if the investor had not subscribed for the relevant shares, or had not been proposing to do so.
- (3) References in this section to the making by any person of a loan to the investor or an associate of the investor include a reference—
  - (a) to the giving by that person of any credit to the investor or any associate of the investor, and
  - (b) to the assignment to that person of a debt due from the investor or any associate of the investor.

#### **257BE The no tax avoidance requirement**

The relevant shares must be subscribed for by the investor for genuine commercial reasons, and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

#### *Meaning of substantial interest in a company*

#### **257BF Persons with a substantial interest in a company**

- (1) An individual has a substantial interest in a company if the individual directly or indirectly possesses or is entitled to acquire more than 30% of—
  - (a) the ordinary share capital of the company or any subsidiary of the company,
  - (b) the issued share capital of the company or any such subsidiary, or
  - (c) the voting power in the company or any such subsidiary.
- (2) An individual has a substantial interest in a company if the individual directly or indirectly possesses or is entitled to acquire such rights as would—
  - (a) in the event of the winding up of the company or any subsidiary of the company, or
  - (b) in any other circumstances,entitle the individual to receive more than 30% of the assets of the company or subsidiary (“the company in question”) which would then be available for distribution to equity holders of the company in question.
- (3) For the purposes of subsection (2)—
  - (a) the persons who are equity holders of the company in question, and
  - (b) the percentage of the assets of the company in question to which the individual would be entitled,are determined in accordance with Chapter 6 of Part 5 of CTA 2010.
- (4) In making that determination—
  - (a) references in section 166 of that Act to company A are to be read as references to an equity holder, and

- (b) references in that section to a winding up are to be read as including a reference to any other circumstances in which assets of the company in question are available for distribution to its equity holders.
- (5) An individual does not have a substantial interest in a company merely because one or more shares in the company are held by the individual or by an associate of the individual, at a time when the company –
  - (a) has not issued any shares other than subscriber shares, and
  - (b) has not begun to carry on, or make preparations for carrying on, any trade or business.
- (6) An individual has a substantial interest in a company if the individual has control of the company or any subsidiary of that company.
- (7) In this section “subsidiary”, in relation to a company, means a company which at any time in period A is a 51% subsidiary of the company, whether or not it is such a subsidiary while the individual concerned has, or is entitled to acquire, such capital, voting power, rights or control as are mentioned in this section.

### CHAPTER 3

#### GENERAL REQUIREMENTS

##### *Introduction*

#### **257C Overview of Chapter**

The general requirements are met in respect of the relevant shares if the requirements of this Chapter are met as to –

- (a) the shares (see section 257CA),
- (b) the purpose of the issue (see section 257CB),
- (c) the spending of the money raised (see section 257CC),
- (d) no pre-arranged exits (see section 257CD),
- (e) no tax avoidance (see section 257CE), and
- (f) no disqualifying arrangements (see section 257CF).

##### *The requirements*

#### **257CA The shares requirement**

- (1) The relevant shares must meet –
  - (a) the requirements of subsection (2), and
  - (b) unless they are bonus shares, the requirements of subsection (4).
- (2) Shares meet the requirements of this subsection if they are ordinary shares which do not, at any time during period B, carry –
  - (a) any present or future preferential right to dividends that is within subsection (3),

- (b) any present or future preferential right to a company's assets on its winding up, or
  - (c) any present or future right to be redeemed.
- (3) A preferential right to dividends carried by a share in a company is within this subsection if –
  - (a) the amount of any dividends payable pursuant to the right, or the date or dates on which they are payable, depend to any extent on a decision of the company, the holder of the share or any other person, or
  - (b) the amount of any dividends that become payable at any time pursuant to the right includes any amount that became payable at any earlier time pursuant to the right but has not been paid.
- (4) Shares meet the requirements of this subsection if they –
  - (a) are subscribed for wholly in cash,
  - (b) are fully paid up at the time they are issued, and
  - (c) are held by the investor throughout period B.
- (5) For the purposes of subsection (4)(c), any part of period B which falls after the investor's death or during which the investor is incapacitated by infirmity or other cause is to be ignored.

#### **257CB The purpose of the issue requirement**

- (1) The relevant shares (other than any of them which are bonus shares) must be issued in order to raise money for the purposes of a qualifying business activity carried on, or to be carried on, by the issuing company.
- (2) For the meaning of "qualifying business activity" see section 257HD.

#### **257CC The spending of the money raised requirement**

- (1) The requirement of this section is that before the end of period B all of the money raised by the issue of the relevant shares (other than any of them which are bonus shares) is spent by the issuing company for the purposes of the qualifying business activity for which it was raised.
- (2) This requirement does not fail to be met merely because an amount of money which is not significant is spent for another purpose.

#### **257CD The no pre-arranged exits requirement**

- (1) The issuing arrangements for the relevant shares must not include –
  - (a) arrangements with a view to the subsequent repurchase, exchange or other disposal of those shares or of other shares in or securities of the issuing company,
  - (b) arrangements for or with a view to the cessation of any trade which is being or is to be or may be carried on by the issuing company or a person connected with that company,
  - (c) arrangements for the disposal of, or of a substantial amount (in terms of value) of, the assets of the issuing company or of a person connected with that company, or

- (d) arrangements the main purpose of which, or one of the main purposes of which, is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for persons investing in shares in the issuing company against what would otherwise be the risks attached to making the investment.
- (2) The arrangements referred to in subsection (1)(b) and (c) do not include any arrangements applicable only on the winding up of a company except in a case where –
  - (a) the issuing arrangements include arrangements for the company to be wound up, or
  - (b) the arrangements are applicable to the winding up of the company otherwise than for genuine commercial reasons.
- (3) The arrangements referred to in subsection (1)(d) do not include any arrangements which are confined to the provision for the issuing company of any such protection against risks arising in the course of carrying on its business as might reasonably be expected to be provided in normal commercial circumstances.
- (4) In this section “the issuing arrangements” means –
  - (a) the arrangements under which the shares are issued to the individual,
  - (b) any arrangements made, before the shares were issued, in relation to or in connection with the issue, and
  - (c) if before the shares were issued information on pre-arranged exits was made available to any prospective subscribers for shares in the issuing company, any arrangements made during period B.
- (5) For the purposes of subsection (4)(c) “information on pre-arranged exits” means any information indicating the possibility of making, during period B, arrangements of the kind described in paragraph (a), (b), (c) or (d) of subsection (1).

#### **257CE The no tax avoidance requirement**

The relevant shares must be issued for genuine commercial reasons, and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

#### **257CF The no disqualifying arrangements requirement**

- (1) The relevant shares must not be issued in consequence of, or otherwise in connection with, disqualifying arrangements.
- (2) Arrangements are “disqualifying arrangements” if –
  - (a) the main purpose, or one of the main purposes, of any person (“P”) in being a party to them is to secure –
    - (i) that the issuing company carries on a business which consists of or includes the relevant qualifying business activity, and
    - (ii) that one or more persons (whether or not including P) may obtain relevant tax relief in respect of shares issued by the issuing company which raise money for the purposes of that activity or that such shares may

- comprise part of the qualifying holdings of a VCT,  
and
- (b) one or both of conditions A and B are met.
- (3) Condition A is that, as a (direct or indirect) result of the money raised by the issue of the relevant shares being spent as required by section 257CC, an amount representing the whole or the majority of the amount raised is paid to or for the benefit of a party to the arrangements or a person connected with such a party.
- (4) Condition B is that, in the absence of the arrangements, it would have been reasonable to expect that the component activities of the relevant qualifying business activity would have been carried on as part of another business (whether by P or any other person).
- (5) For the purposes of this section it is immaterial whether the issuing company is a party to the arrangements.
- (6) In this section –
- “component activities” means –
- (a) if the relevant qualifying business activity is activity A (see section 257HD(2)), the carrying on of a new qualifying trade, or preparing to carry on such a trade, which constitutes that activity, and
- (b) if the relevant qualifying business activity is activity B (see section 257HD(4)), the carrying on of research and development which constitutes that activity;
- “qualifying holdings”, in relation to the issuing company, is to be construed in accordance with section 286 (VCTs: qualifying holdings);
- “relevant qualifying business activity” means the activity for the purposes of which the issue of the relevant shares raised money;
- “relevant tax relief”, in respect of shares, means one or more of the following –
- (a) SEIS relief in respect of the shares;
- (b) EIS relief in respect of the shares;
- (c) relief under Chapter 6 of Part 4 (losses on disposal of shares) in respect of the shares;
- (d) relief under section 150A or 150E of TCGA 1992 (enterprise investment scheme) in respect of the shares;
- (e) relief under Schedule 5B to that Act (enterprise investment scheme: reinvestment) in consequence of which deferral relief is attributable to the shares (see paragraph 19(2) of that Schedule).

**CHAPTER 4**

## THE ISSUING COMPANY

*Introduction***257D Overview of Chapter**

The issuing company is a qualifying company in relation to the relevant shares if the requirements of this Chapter are met as to—

- (a) the timing of incorporation (see section 257DA),
- (b) the purpose of existence (see section 257DB),
- (c) the issuing company to carry on the qualifying business activity (see section 257DD),
- (d) UK permanent establishment (see section 257DE),
- (e) financial health (see section 257DF),
- (f) unquoted status (see section 257DG),
- (g) control and independence (see 257DH),
- (h) no partnerships (see section 257DI),
- (i) gross assets (see section 257DJ),
- (j) number of employees (see section 257DK),
- (k) no previous other risk capital scheme investments (see section 257DL), and
- (l) the maximum amount raised through the SEIS (see section 257DM)

*The requirements***257DA The timing of incorporation requirement**

The issuing company must have been incorporated within the period of two years ending with the day on which the relevant shares are issued.

**257DB The purpose of existence requirement**

- (1) The issuing company must meet the purpose of existence requirement throughout period B.
- (2) The purpose of existence requirement is that the company, ignoring any incidental purposes, exists wholly for the purpose of carrying on one or more new qualifying trades (see section 257HC).
- (3) Where period B begins after the incorporation of the company, the requirement of subsection (2) must have been complied with since its incorporation; but for the purposes of that subsection any interval between the incorporation of the company and the time when it commenced business is to be ignored.
- (4) In this section “incidental purposes” means purposes having no significant effect (other than in relation to incidental matters) on the extent of the activities of the company in question.

**257DC Ceasing to meet purpose of existence requirement: administration etc**

- (1) A company is not regarded as ceasing to meet the purpose of existence requirement merely because of anything done in consequence of the company being in administration or receivership. This is subject to subsections (2) and (3).
- (2) Subsection (1) applies only if—
  - (a) the entry into administration or receivership, and
  - (b) everything done as a result of the company being in administration or receivership,is for genuine commercial reasons, and is not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (3) A company ceases to meet the purpose of existence requirement if before the end of period B—
  - (a) a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989, any other act is done for the like purpose), or
  - (b) the company is dissolved without winding up.This is subject to subsection (4).
- (4) Subsection (3) does not apply if the winding up or dissolution is for genuine commercial reasons, and is not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

**257DD The issuing company to carry on the qualifying business activity**

- (1) The requirement of this section is met in relation to the issuing company if, at no time in period B, is any of the following—
  - (a) the relevant new qualifying trade,
  - (b) relevant preparation work (if any), and
  - (c) relevant research and development (if any),carried on by a person other than the issuing company.
- (2) The requirement of this section is not regarded as failing to be met in relation to the issuing company if, merely because of any act or event within subsection (3), the relevant new qualifying trade—
  - (a) ceases to be carried on in period B by the issuing company, and
  - (b) is subsequently carried on in that period by a person who is not at any time in period A connected with the issuing company.
- (3) The following are acts and events within this subsection—
  - (a) anything done as a consequence of the issuing company being in administration or receivership, and
  - (b) the issuing company being wound up, or dissolved without being wound up.
- (4) Subsection (2) applies only if—

- (a) the entry into administration or receivership, and everything done as a consequence of the company concerned being in administration or receivership, or
- (b) the winding up or dissolution,

is for genuine commercial reasons, and is not part of a scheme or arrangement the main purpose of or one of the main purposes of which is the avoidance of tax.

- (5) In this section –
- “relevant preparation work” means preparations within section 257HD(2)(b) which are the subject of the qualifying business activity mentioned in section 257CB;
  - “the relevant new qualifying trade” means the new qualifying trade which is the subject of that qualifying business activity;
  - “relevant research and development” means –
    - (a) research and development within section 257HD(4) which is the subject of that qualifying business activity, and
    - (b) any other preparations for the carrying on of the new qualifying trade which is the subject of that activity.

#### **257DE The UK permanent establishment requirement**

- (1) The issuing company must meet the UK permanent establishment requirement throughout period B.
- (2) The UK permanent establishment requirement is that the issuing company has a permanent establishment in the United Kingdom.

#### **257DF The financial health requirement**

- (1) The issuing company must meet the financial health requirement at the beginning of period B.
- (2) The financial health requirement is that the issuing company is not in difficulty.
- (3) The issuing company is “in difficulty” if it is reasonable to assume that it would be regarded as a firm in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02).

#### **257DG The unquoted status requirement**

- (1) At the beginning of period B –
  - (a) the issuing company must be an unquoted company, and
  - (b) there must be no arrangements in existence for the issuing company to cease to be an unquoted company.
- (2) In this section “unquoted company” means a company none of whose shares, stocks, debentures or other securities are marketed to the general public.
- (3) For the purposes of subsection (2), shares, stock, debentures or other securities are marketed to the general public if they are –
  - (a) listed on a recognised stock exchange,

- (b) listed on a designated exchange in a country outside the United Kingdom, or
  - (c) dealt in outside the United Kingdom by such means as may be designated.
- (4) In subsection (3)(b) or (c) “designated” means designated by an order made by the Commissioners for Her Majesty’s Revenue and Customs for the purposes of that provision.
- (5) An order made for the purposes of subsection (3)(b) may designate an exchange by name, or by reference to any class or description of exchanges, including a class or description framed by reference to any authority or approval given in a country outside the United Kingdom.
- (6) The arrangements referred to in subsection (1)(b) do not include arrangements in consequence of which any shares, stocks, debentures or other securities of the company are at any subsequent time –
- (a) listed on a stock exchange that is a recognised stock exchange by virtue of an order made under section 1005(1)(b), or
  - (b) listed on an exchange, or dealt in by any means, designated by an order made for the purposes of subsection (3)(b) or (c), if the order was made after the beginning of period B.

**257DH The control and independence requirement**

- (1) The control element of the requirement is that –
- (a) the issuing company must not at any time in period A control (whether on its own or together with any person connected with it) any company, and
  - (b) no arrangements must be in existence at any time in that period by virtue of which the issuing company could fail to meet paragraph (a) (whether during that period or otherwise).
- (2) The independence element of the requirement is that –
- (a) the issuing company must not at any time in period A be under the control of any other company (whether on its own or together with any person connected with it), and
  - (b) no arrangements must be in existence at any time in that period by virtue of which the issuing company could fail to meet paragraph (a) (whether during that period or otherwise).

**257DI The no partnerships requirement**

- (1) The issuing company must not, at any time during period A, be a member of a partnership.
- (2) “Partnership” includes –
- (a) a limited liability partnership, and
  - (b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,
- and “member”, in relation to a partnership, is to be read accordingly.

**257DJ The gross assets requirement**

- (1) The total of—
  - (a) the value of the issuing company’s assets, and
  - (b) the appropriate proportion of the value of the assets of each entity related to that company (if any),must not exceed £200,000 immediately before the relevant shares are issued.
- (2) In subsection (1)—
  - (a) an entity is related to the issuing company if the entity and company are partner enterprises by reason of the entity holding 25% or more of the capital or voting rights of the issuing company, and
  - (b) “the appropriate proportion”, in relation to a related entity, means whichever is the greater of—
    - (i) the proportion of capital of the issuing company held by that entity, and
    - (ii) the proportion of voting rights in the issuing company held by that entity.
- (3) In this section “partner enterprises” has the meaning given by Annex 1 to the Commission Regulation (EC) No 800/2008 (General block exemption Regulation).

**257DK The number of employees requirement**

- (1) The total of—
  - (a) the full-time equivalent employee number for the issuing company, and
  - (b) the appropriate proportion of the full-time equivalent employee number for each entity related to that company (if any),must be less than 25 when the relevant shares are issued.
- (2) Subsections (2) and (3) of section 257DJ apply for the purposes of subsection (1) of this section.
- (3) The full-time equivalent employee number for a company is calculated as follows—
  - Step 1*  
Find the number of full-time employees of the company.
  - Step 2*  
Add, for each employee of the company who is not a full-time employee, such fraction as is just and reasonable.  
The result is the full-time equivalent employee number.
- (4) In this section references to an employee—
  - (a) include a director, but
  - (b) do not include—
    - (i) an employee on maternity or paternity leave, or
    - (ii) a student on vocational training.

### **257DL No previous other risk capital scheme investments**

- (1) The requirement of this section is that no EIS investment or VCT investment is or has been made in the issuing company on or before the day on which the relevant shares are issued.
- (2) An “EIS investment” is made in the company if the company –
  - (a) issues shares (money having been subscribed for them), and
  - (b) (at any time) provides a compliance statement under section 205 in respect of the shares;and the EIS investment is regarded as made when the shares are issued.
- (3) A “VCT investment” is made in the company if an investment (of any kind) in the company is made by a VCT.

### **257DM The maximum amount raised through SEIS**

- (1) The total amount of SEIS investments made in the issuing company must not exceed £150,000.
- (2) An “SEIS investment” is made in a company if –
  - (a) the company issues shares (money having been subscribed for them), and
  - (b) (at any time) the company provides a compliance statement under section 257ED in respect of the shares;and the SEIS investment is made when the shares are issued.
- (3) Subsection (4) applies where –
  - (a) an issue of shares is made by the issuing company, or two or more such issues are made on the same day,
  - (b) ignoring the issue or issues mentioned in paragraph (a), the total amount of the SEIS investments previously made in the issuing company is less than £150,000 and
  - (c) the sum of that total amount and the total amount subscribed for the shares in the issue or issues mentioned in paragraph (a) exceeds £150,000.
- (4) In the case of the issue or each of the issues mentioned in subsection (3)(a) –
  - (a) the appropriate proportion of the shares in the issue and the remainder are to be treated as two separate issues for the purposes of this Part, and
  - (b) the requirement in subsection (1) is met in respect of the issue comprised of the appropriate proportion of the shares in the issue, but not in respect of the issue comprised of the remaining shares.
- (5) “The appropriate proportion” of the shares is –

$$\frac{A - B}{C}$$

Where –

“A” is £150,000,  
“B” is the total amount of the SEIS investments previously made in the issuing company (as mentioned in subsection (3)(b)), and  
“C” is the total amount subscribed for the issue or issues mentioned in subsection (3)(a).

## CHAPTER 5

### ATTRIBUTION AND CLAIMS FOR SEIS RELIEF

#### *Attribution*

#### **257E Attribution of SEIS relief to shares**

- (1) References in this Part, in relation to any individual, to the SEIS relief attributable to any shares or issue of shares are to be read as references to any reduction made in the individual’s liability to income tax that is attributed to those shares or that issue in accordance with this section.  
This is subject to the provisions of Chapters 6 and 7 providing for the withdrawal or reduction of SEIS relief.
- (2) If an individual’s liability to income tax is reduced in any tax year, then –
  - (a) if the reduction is obtained because of one issue of shares, the amount of the tax reduction is attributed to that issue, and
  - (b) if the reduction is obtained because of two or more issues of shares, the amount of the reduction –
    - (i) is apportioned between those issues in the same proportions as the amounts claimed by the individual in respect of each issue, and
    - (ii) is attributed to those issues accordingly.
- (3) If under this section an amount of any reduction of income tax is attributed to an issue of shares (“the original issue”), a proportionate part of that amount is attributed to each share in respect of which the claim is made.
- (4) If corresponding bonus shares are issued to the individual in respect of any shares (“the original shares”) to which SEIS relief is attributed –
  - (a) a proportionate part of the total amount attributed to the original shares immediately before the bonus shares are issued is attributed to each of the shares in the holding comprising the original shares and the bonus shares, and
  - (b) after the issue of the bonus shares, this Part applies as if the original issue had included those shares.
- (5) In subsection (4) “corresponding bonus shares” means bonus shares which are in the same company, of the same class, and carry the same rights as the original shares.
- (6) If section 257AB(1) and (2) applies in the case of any issue of shares as if part of the issue had been issued in a previous tax year, this

section has effect as if that part and the remainder were separate issues of shares (and that part had been issued on a day in the previous tax year).

- (7) If, at a time when SEIS relief is attributable to, or to any part of, any issue of shares, the relief falls to be withdrawn or reduced under Chapters 6 and 7 –
  - (a) if it falls to be withdrawn, the relief attributable to each of the shares in question is reduced to nil, and
  - (b) if it falls to be reduced by any amount, the relief attributable to each of the shares in question is reduced by a proportionate part of that amount.

*Claims: general*

**257EA Time for making claims for SEIS relief**

- (1) A claim for SEIS relief in respect of shares issued by a company in any tax year –
  - (a) may not be made until at least 70% of the money raised by the issue has been spent by the issuing company for the purposes of the qualifying business activity for which it was raised, and
  - (b) may not be made later than the fifth anniversary of the normal self-assessment filing date for the tax year.
- (2) If section 257AB(1) and (2) applies in the case of any issue of shares as if part of the issue had been issued in a previous tax year, this section has effect as if that part and the remainder were separate issues of shares (and that part had been issued on a day in the previous tax year).

**257EB Entitlement to claim**

- (1) The investor is entitled to make a claim for SEIS relief in respect of the amount subscribed by the investor for the relevant shares if the investor has received from the issuing company a compliance certificate in respect of those shares.
- (2) For the purposes of PAYE regulations no regard is to be had to SEIS relief unless a claim for it has been duly made.
- (3) No application may be made under section 55(3) or (4) of TMA 1970 (application for postponement of payment of tax pending appeal) on the ground that the investor is eligible for SEIS relief unless a claim for the relief has been duly made by the investor.

*Claims: supporting documents*

**257EC Compliance certificates**

- (1) A “compliance certificate” is a certificate which –
  - (a) is issued by the issuing company in respect of the relevant shares,

- (b) states that, except so far as they fall to be met by or in relation to the investor, the requirements for SEIS relief are for the time being met in relation to those shares, and
  - (c) is in such form as the Commissioners for Her Majesty’s Revenue and Customs may direct.
- (2) The issuing company must not issue a compliance certificate until it has spent at least 70% of the money raised by the issue of shares which includes the relevant shares for the purposes of the qualifying business activity for which it was raised
- (3) Before issuing a compliance certificate in respect of the relevant shares, the issuing company must provide an officer of Revenue and Customs with a compliance statement in respect of the issue of shares which includes the relevant shares.
- (4) The issuing company must not issue a compliance certificate without the authority of an officer of Revenue and Customs.
- (5) If the issuing company, or a person connected with the issuing company, has given notice to an officer of Revenue and Customs under section 257GF, a compliance certificate must not be issued unless the authority is given or renewed after the receipt of the notice.
- (6) If an officer of Revenue and Customs –
  - (a) has been requested to give or renew an authority to issue a compliance certificate, and
  - (b) has decided whether or not to do so,the officer must give notice of the officer’s decision to the issuing company.

#### **257ED Compliance statements**

- (1) A “compliance statement” is a statement, in respect of an issue of shares, to the effect that, except so far as they fall to be met by or in relation to the individuals to whom shares included in that issue have been issued, the requirements for SEIS relief (see section 257AA) –
  - (a) are for the time being met in relation to the shares to which the statement relates, and
  - (b) have been so met at all times since the shares were issued.
- (2) In determining for the purposes of subsection (1) whether the requirements for SEIS relief are met at any time in relation to the issue of shares, references in this Part to the relevant shares are read as references to the shares included in the issue.
- (3) A compliance statement must be in such form as the Commissioners for Her Majesty’s Revenue and Customs direct and must contain –
  - (a) such additional information as the Commissioners reasonably require, including in particular information relating to the persons who have requested the issue of compliance certificates,
  - (b) a declaration that the statement is correct to the best of the issuing company’s knowledge and belief, and

- (c) such other declarations as the Commissioners may reasonably require.

#### **257EE Appeal against refusal to authorise compliance certificate**

For the purposes of the provisions of TMA 1970 relating to appeals, the refusal of an officer of Revenue and Customs to authorise the issue of a compliance certificate is taken to be a decision disallowing a claim by the issuing company.

#### **257EF Penalties for fraudulent certificate or statement etc**

The issuing company is liable to a penalty not exceeding £3,000 if—

- (a) it issues a compliance certificate, or provides a compliance statement, which is made fraudulently or negligently, or
- (b) it issues a compliance certificate in contravention of section 257EC(2), (4) or (5).

#### **257EG Power to amend sections 257EC and 257ED by Treasury order**

- (1) The Treasury may by order make such amendments of sections 257EC and 257ED as they consider appropriate.
- (2) An order under this section may include incidental, supplemental, consequential and transitional provision and savings.

## **CHAPTER 6**

### **WITHDRAWAL OR REDUCTION OF SEIS RELIEF**

#### *Introduction*

#### **257F Overview of Chapter**

This Chapter provides for SEIS relief to be withdrawn or reduced under—

- (a) section 257FA (disposal of shares),
- (b) section 257FC (call options),
- (c) section 257FD (put options),
- (d) section 257FE (value received by the investor),
- (e) section 257FP (acquisition of a trading asset),
- (f) section 257FQ (relief subsequently found not to have been due).

#### **257FA Disposal of shares**

- (1) This section applies if—
  - (a) the investor disposes of any of the relevant shares,
  - (b) the disposal takes place before period B ends, and
  - (c) SEIS relief is attributable to the shares.
- (2) If the disposal is not made by way of a bargain made at arm's length, the SEIS relief attributable to the shares must be withdrawn.
- (3) If the disposal is made by way of a bargain made at arm's length, the SEIS relief attributable to the shares must—

- (a) if it is greater than the amount given by the formula set out below, be reduced by that amount, and
- (b) in any other case, be withdrawn.

The formula is—

$$R \times \text{SEISR}$$

where—

R is the amount or value of the consideration received by the investor for the shares, and  
SEISR is the SEIS rate.

- (4) This section does not apply to a disposal of shares to which an amount of SEIS relief is attributable if—
  - (a) the disposal was made by an individual (“A”) to another individual (“B”), and
  - (b) A and B were married to, or were civil partners of, each other and living together at the time of the disposal.
- (5) Section 257HA contains rules for determining which shares of any class are treated as disposed of for the purposes of this section if the investor disposes of some but not all the shares of that class which are held by the investor.

#### **257FB Cases where maximum SEIS relief not obtained**

- (1) If the investor’s liability to income tax is reduced for any tax year in respect of any issue of shares and—
  - (a) the amount of the reduction (“A”), is less than
  - (b) the amount (“B”) which is equal to tax at the SEIS rate on the amount on which the investor claims SEIS relief in respect of the shares,

section 257FA(3) has effect in relation to a disposal of any of the shares as if the amount or value referred to as “R” were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

- (2) If section 257AB(1) and (2) applies in the case of any issue of shares as if part of the issue had been issued in a previous tax year, subsection (1) has effect as if that part and the remainder were separate issues of shares (and that part had been issued on a day in the previous tax year).
- (3) If the amount of SEIS relief attributable to any of the relevant shares has been reduced before the SEIS relief was obtained, the amount referred to in subsection (1) as A is to be treated for the purposes of

that subsection as the amount that it would have been without that reduction.

- (4) Subsection (3) does not apply to a reduction of SEIS relief by virtue of section 257E(4) (attribution of SEIS relief if there is a corresponding issue of bonus shares).

#### **257FC Call options**

- (1) This section applies if the investor grants an option which, if exercised, would bind the investor to sell any of the relevant shares.
- (2) The grant of the option is treated for the purposes of section 257FA as a disposal of the shares to which the option relates.
- (3) Nothing in this section prejudices section 257CD (no pre-arranged exits).

#### **257FD Put options**

- (1) This section applies if, at any time in period A, a person grants the investor an option which, if exercised, would bind the grantor to purchase any of the relevant shares.
- (2) Any SEIS relief attributable to the shares to which the option relates must be withdrawn.
- (3) For the purposes of subsection (2) the shares to which an option relates are those which, if—
  - (a) the option were exercised immediately after the grant, and
  - (b) any shares in the issuing company acquired by the investor after the grant were disposed of immediately after being acquired,would be treated for the purposes of section 257FA as disposed of in pursuance of the option.

*Value received by investor*

#### **257FE Value received by the investor**

- (1) This section applies if the investor receives any value from the issuing company at any time in period A relating to the relevant shares.
- (2) Any SEIS relief attributable to the shares must—
  - (a) if it is greater than the amount given by the formula set out below, be reduced by that amount, and
  - (b) in any other case, be withdrawn.The formula is—

$$R \times \text{SEISR}$$

where—

R is the amount of the value received by the investor, and

SEISR is the SEIS rate.

- (3) This section is subject to the following sections –
- (a) section 257FF (value received: receipts of insignificant value),
  - (b) section 257FJ (value received where there is more than one issue of shares),
  - (c) section 257FK (value received where part of share issue treated as made in previous tax year),
  - (d) section 257FL (cases where maximum SEIS relief not obtained),
  - (e) section 257FM (receipts of value by and from connected persons etc), and
  - (f) section 257FN (receipt of replacement value).
- Sections 257FJ to 257FL are to be applied in the order in which they appear in this Part.
- (4) Value received is to be ignored, for the purposes of this section, to the extent to which SEIS relief attributable to the shares has already been withdrawn or reduced on its account.
- (5) For the purposes of this section and sections 257FF to 257FO, an individual who acquires any relevant shares on such a transfer as is mentioned in section 257H (spouses or civil partners) is treated as the investor.

#### **257FF Value received: receipts of insignificant value**

- (1) Section 257FE(2) does not apply if the receipt of value is a receipt of insignificant value.  
This is subject to subsection (2).
- (2) If –
- (a) value is received (“the relevant receipt”) by the investor from the issuing company at any time in period A relating to the relevant shares,
  - (b) the investor has received from the issuing company one or more receipts of insignificant value at a time or times –
    - (i) during that period, but
    - (ii) not later than the time of the relevant receipt, and
  - (c) the total value of the receipts within paragraphs (a) and (b) is not an amount of insignificant value,
- the investor is treated for the purposes of this Chapter as if the relevant receipt had been a receipt of an amount of value equal to that total amount.
- (3) A receipt does not fall within subsection (2)(b) if it has previously formed part of a total amount falling within subsection (2)(c).

#### **257FG Meaning of “receipts of insignificant value”**

- (1) This section applies for the purposes of section 257FF.
- (2) “A receipt of insignificant value” means a receipt of an amount of insignificant value, that is, an amount of value which –
- (a) is not more than £1,000, or

- (b) if it is more than £1,000, is insignificant in relation to the amount subscribed by the investor for the relevant shares.

This is subject to subsection (3).

- (3) If at any time in the period –
  - (a) beginning 12 months before the issue of the relevant shares, and
  - (b) ending at the end of the issue date,repayment arrangements are in existence, no amount of value received by the investor is treated as a receipt of insignificant value.
- (4) For this purpose “repayment arrangements” means arrangements which provide for the investor to receive, or to be entitled to receive, any value from the issuing company at any time in period A relating to the relevant shares.
- (5) For the purposes of this section –
  - (a) the references in this section to the investor include a reference to any person who at any time in period A relating to the relevant shares is an associate of the investor (whether or not that person is such an associate at the material time), and
  - (b) the reference in subsection (4) to the issuing company includes a reference to a person who at any time in period A relating to the relevant shares is connected with that company (whether or not that person is so connected at the material time).

#### **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,
  - (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 –

- (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 257DC(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 payment of remuneration includes a reference to 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.

#### **257FI The amount of value received**

In a case falling within a provision listed in column 1 of the following table, the amount of value received for the purposes of sections 257FE and 257FJ is given by the corresponding entry in column 2 of the table.

<i>Provision</i>	<i>The amount of value received</i>
Section 257FH(2)(a), (b) or (c)	The amount received by the investor or, if greater, the market value of the shares, securities or debt
Section 257FH(2)(d)	The amount of the liability
Section 257FH(2)(e)	The amount of the loan or advance, less the amount of any repayment made before the issue of the relevant shares
Section 257FH(2)(f)	The cost to the issuing company of providing the benefit or facility, less any consideration given for it by the investor
Section 257FH(2)(g)	The difference between the market value of the asset and the consideration (if any) given for it
Section 257FH(2)(h)	The amount of the payment
Section 257FH(7)	The amount of the payment or the market value of the asset
Section 257FH(8)	The amount received by the investor or, if greater, the market value of the shares or securities

### **257FJ Value received where there is more than one issue**

- (1) This section applies if—
- (a) two or more issues of shares in the issuing company have been made to the investor which include shares in respect of which the investor obtains SEIS relief, and
  - (b) value is received by the investor at any time in the applicable periods for two or more of those issues.
- (2) Section 257FE(2) has effect in relation to the shares included in each of the issues referred to in subsection (1)(b) as if the amount of value referred to as “R” were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

A is the amount on which the investor obtains SEIS relief in respect of the shares included in the issue in question, and  
B is the sum of that amount and the corresponding amount or amounts in respect of the other issue or issues.

- (3) For the purposes of subsection (1) “the applicable period” for an issue of shares is period A in relation to those shares.

**257FK Value received where part of issue treated as made in previous tax year**

- (1) This section applies if –
- (a) section 257FE(2) applies to an issue of shares, and
  - (b) section 257AB(1) and (2) (form and amount of SEIS relief) applies in the case of that issue as if part of the issue had been issued in a previous tax year.
- (2) This subsection explains how the calculation under section 257FE(2) is to be made.

*Step 1*

Apportion the amount referred to as “R” between the tax year in which the shares were issued and the previous tax year by multiplying that amount by the fraction –

$$\frac{A}{B}$$

where –

A is the amount on which the investor obtains SEIS relief in respect of the shares treated as issued in the tax year in question, and

B is the sum of that amount and the corresponding amount in respect of the shares treated as issued in the other tax year.

*Step 2*

In relation to each of the amounts (“R1” and “R2”) so apportioned to the two tax years, calculate the amounts (“X1” and “X2”) that would be given by the formula if there were separate issues of shares in those tax years.

In calculating amounts X1 and X2, apply section 257FL if appropriate but do not apply section 257FJ.

*Step 3*

Add amounts X1 and X2 together.

The result is the required amount.

**257FL Cases where maximum SEIS relief not obtained**

- (1) If the investor’s liability to income tax is reduced for any tax year in respect of any issue of shares and –
- (a) the amount of the reduction (“A”), is less than
  - (b) the amount (“B”) which is equal to income tax at the SEIS rate on the amount on which the investor claims SEIS relief in respect of the shares,

section 257FE(2) has effect in relation to any value received as if the amount referred to as “R” were reduced by multiplying it by the fraction—

$$\frac{A}{B}$$

- (2) If the amount of SEIS relief attributable to any of the relevant shares has been reduced before the SEIS relief was obtained, the amount referred to in subsection (1) as “A” is to be treated for the purposes of that subsection as the amount that it would have been without that reduction.
- (3) Subsection (2) does not apply to a reduction of SEIS relief by virtue of section 257E(4) (attribution of SEIS relief where there is a corresponding issue of bonus shares).

#### **257FM Receipts of value by and from connected persons etc**

In sections 257FE, 257FF and 257FH to 257FJ—

- (a) any reference to a payment or transfer to the investor includes a reference to a payment or transfer made to the investor indirectly or to the investor’s order or for the investor’s benefit,
- (b) any reference to the investor includes a reference to an associate of the investor, and
- (c) any reference to the issuing company includes a reference to a person who at any time in period A relating to the relevant shares is connected with that company (whether or not that person is so connected at the material time).

#### **257FN Receipt of replacement value**

- (1) If—
  - (a) any SEIS relief attributable to the relevant shares would, in the absence of this section, be reduced or withdrawn under section 257FE because of a receipt of value within section 257FH(2), (7) or (8) (“the original value”),
  - (b) the original supplier receives value (“the replacement value”) from the original recipient and the receipt is a qualifying receipt, and
  - (c) the amount of the replacement value is at least the amount of the original value,
 section 257FE does not, because of the receipt of value, have effect to reduce or withdraw the SEIS relief.  
 This is subject to section 257FO (1) and (2).
- (2) For the purposes of this section—
  - “the original recipient” means the person who receives the original value;
  - “the original supplier” means the person from whom that value was received.

- (3) If the amount of the original value is, by virtue of section 257FJ, treated as reduced for the purposes of section 257FE(2) as it applies in relation to the relevant shares in question, the reference in subsection (1)(c) to the amount of the original value is to be read as a reference to the amount of that value ignoring the reduction.
- (4) A receipt of the replacement value is a qualifying receipt for the purposes of subsection (1) if it arises –
  - (a) because of the original recipient doing one or more of the following –
    - (i) making a payment to the original supplier, other than a payment within paragraph (c) or a payment to which subsection (5) applies,
    - (ii) acquiring any asset from the original supplier for a consideration the amount or value of which is more than the market value of the asset,
    - (iii) disposing of any asset to the original supplier for no consideration or for a consideration the amount or value of which is less than the market value of the asset,
  - (b) if the receipt of the original value was within section 257FH(2)(d), because of an event the effect of which is to reverse the event which constituted the receipt of the original value, or
  - (c) if the receipt of the original value was within section 257FH(8), because of the original recipient repurchasing the share capital or securities in question, or (as the case may be) re-acquiring the right in question, for a consideration the amount or value of which is at least the amount of the original value.
- (5) This subsection applies to –
  - (a) any payment for any goods, services or facilities, provided (whether in the course of trade or otherwise) by –
    - (i) the original supplier, or
    - (ii) any other person who, at any time in period A relating to the relevant shares, is an associate of, or is connected with, that supplier (whether or not the other person is such an associate, or is so connected, at the material time),which is reasonable in relation to the market value of those goods, services or facilities,
  - (b) any payment of any interest which represents no more than a reasonable commercial return on any money lent to –
    - (i) the original recipient, or
    - (ii) any person who, at any time in period A relating to the relevant shares, is an associate of that recipient (whether or not the person is such an associate at the material time),
  - (c) any payment for the acquisition of an asset which does not exceed its market value,
  - (d) any payment, as rent for any property occupied by –
    - (i) the original recipient, or

- (ii) any person who, at any time in period A relating to the relevant shares, is an associate of that recipient (whether or not the person is such an associate at the material time),
    - of an amount not exceeding a reasonable and commercial rent for the property,
  - (e) any payment in discharge of an ordinary trade debt, and
  - (f) any payment for shares in or securities of any company in circumstances that do not fall within subsection (4)(a)(ii).
- (6) For the purposes of this section, the amount of the replacement value is—
  - (a) in a case within paragraph (a) of subsection (4), the sum of—
    - (i) the amount of any payment within sub-paragraph (i) of that paragraph, and
    - (ii) the difference between the market value of any asset to which sub-paragraph (ii) or (iii) of that paragraph applies and the amount or value of the consideration (if any) received for it,
  - (b) in a case within subsection (4)(b), the same as the amount of the original value, and
  - (c) in a case within subsection (4)(c), the amount or value of the consideration received by the original supplier.

Section 257FI applies for the purpose of determining the original value.

- (7) In this section—
  - (a) any reference to a payment to a person (however expressed) includes a reference to a payment made to the person indirectly or to the person’s order or for the person’s benefit, and
  - (b) “ordinary trade debt” has the meaning given by section 257FH(13).

#### **257FO Section 257FN: supplementary**

- (1) The receipt of the replacement value by the original supplier is ignored for the purposes of section 257FN(1) to the extent to which it has previously been set (under that section) against a receipt of value to prevent any reduction or withdrawal of SEIS relief under section 257FE.
- (2) The receipt of the replacement value by the original supplier (“the event”) is ignored for the purposes of section 257FN if—
  - (a) the event occurs before period A relating to the relevant shares,
  - (b) if the event occurs after the time the original recipient receives the original value, it does not occur as soon after that time as is reasonably practicable in the circumstances, or
  - (c) if an appeal has been brought by the investor against an assessment to withdraw or reduce any SEIS relief attributable to the relevant shares because of the receipt of the original value, the event occurs more than 60 days after the day on

which the amount of relief which falls to be withdrawn has been finally determined.

But nothing in section 257FN or this section requires the replacement value to be received after the original value.

- (3) This subsection applies if –
  - (a) the receipt of the replacement value by the original supplier is a qualifying receipt for the purposes of section 257FN(1),
  - (b) in consequence of the receipt, any receipts of value are ignored for the purposes of section 257FE as that section applies in relation to the shares in question or any other shares subscribed for by the investor, and
  - (c) the event which gives rise to the receipt is (or includes) a subscription for shares by –
    - (i) the investor, or
    - (ii) any person who at any time in period A relating to the relevant shares is an associate of the investor (whether or not the person is such an associate at the material time).
- (4) If subsection (3) applies, the person who subscribes for the shares is not to be eligible for any SEIS relief in relation to those shares or any other shares in the same issue.
- (5) In this section “the original recipient”, “the original supplier” and “replacement value” have the same meaning as in section 257FN.

#### *Miscellaneous*

#### **257FP Acquisition of trading assets**

- (1) Any SEIS relief attributable to any shares in a company held by an individual is withdrawn if –
  - (a) at any time in period A, the company acquires the whole, or the greater part, of the assets used for the purposes of a trade previously carried on otherwise than by the company, and
  - (b) the individual is a person, or one of a group of persons, to whom subsection (2) or (3) applies.
- (2) This subsection applies to any person or group of persons –
  - (a) to whom an interest amounting in total to more than a half share in the trade (as previously carried on) belonged at any time in period A, and
  - (b) who is a person or group of persons to whom such an interest in the trade carried on by the company belongs or has, at any such time, belonged.
- (3) This subsection applies to any person or group of persons who –
  - (a) control or, at any time in period A, have controlled the company, and
  - (b) is a person or group of persons who, at any such time, controlled another company which previously carried on the trade.
- (4) For the purposes of subsection (2) –

- (a) for the purposes of determining the person to whom a trade belongs and, if a trade belongs to two or more persons, their respective shares in that trade –
    - (i) apply section 941(6) of CTA 2010, and
    - (ii) an interest in a trade belonging to a company may be treated in accordance with any of the options set out in section 942 of that Act, and
  - (b) any interest, rights or powers of a person who is an associate of another person are treated as those of that other person.
- (5) In this section “trade” includes any business or profession, and references to a trade previously carried on include references to part of such a trade.

#### **257FQ Relief subsequently found not to have been due**

- (1) Any SEIS relief obtained by the investor which is subsequently found not to have been due must be withdrawn.
- (2) SEIS relief obtained by the investor in respect of the relevant shares may not be withdrawn on the ground –
  - (a) that the requirements of sections 257CB and 257CC (the purpose of the issue and use of money raised requirements) are not met in respect of the shares, or
  - (b) that the issuing company is not a qualifying company in relation to the shares (see Chapter 4),
 unless the requirements of subsection (3) are met.
- (3) The requirements of this subsection are met if either –
  - (a) the issuing company has given notice under section 257GF (information to be provided by issuing company etc) in relation to the relevant issue of shares, or
  - (b) an officer of Revenue and Customs has given notice to that company stating the officer’s opinion that, because of the ground in question, the whole or any part of the SEIS relief obtained by any individual in respect of shares included in the relevant issue of shares was not due.
- (4) In this section “the relevant issue of shares” means the issue of shares in the issuing company which includes the relevant shares.

## **CHAPTER 7**

### WITHDRAWAL OR REDUCTION OF SEIS RELIEF

#### *Assessments and appeals*

#### **257G Assessments for the withdrawal or reduction of SEIS relief**

If any SEIS 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.

### **257GA Appeals against section 257FQ(3)(b) notices**

For the purposes of the provisions of the TMA 1970 relating to appeals, the giving of notice by an officer of Revenue and Customs under section 257FQ(3)(b) is taken to be a decision disallowing a claim by the issuing company.

### **257GB Time limits for assessments**

- (1) An officer of Revenue and Customs may –
  - (a) make an assessment for withdrawing or reducing the SEIS relief attributable to any of the relevant shares, or
  - (b) give a notice under section 257FQ(3),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 period B ends, or
  - (b) the tax year in which the event which causes the SEIS relief to be withdrawn or reduced occurs,whichever is the later.
- (3) Subsection (1) is without prejudice to section 36(1A) of TMA 1970 (loss of tax brought about deliberately etc).

### **257GC Cases where assessments not to be made**

- (1) No assessment for withdrawing or reducing SEIS 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 257FA(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 SEIS relief is attributable, or
    - (ii) in relation to which period A has not come to an end.
- (3) No assessment for withdrawing or reducing SEIS relief in respect of those shares may be made because of any subsequent event unless the event occurs at a time when the individual –
  - (a) has a substantial interest in the company within the meaning of section 257BB,
  - (b) is an employee of the issuing company, or
  - (c) is a director of the issuing company.

### *Interest*

### **257GD Date from which interest is chargeable**

- (1) In its application to an assessment made by virtue of section 257G in the case of relief withdrawn or reduced by virtue of a provision listed in subsection (2), section 86 of TMA 1970 (interest on overdue income tax) has effect as if the relevant date were 31 January next following the tax year in which the assessment is made.

- (2) The provisions are –
- (a) section 257BB (no substantial interest in the issuing company),
  - (b) section 257BD (no linked loan requirement),
  - (c) sections 257DA to 257DM (Chapter 4 requirements),
  - (d) section 257FA (disposal of shares),
  - (e) section 257FD (put options),
  - (f) section 257FE (receipt of value by the investor),
  - (g) section 257FP (acquisition of a trading asset).

### *Information*

#### **257GE Information to be provided by the investor**

- (1) This section applies if the investor has obtained SEIS 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 SEIS relief falls to be withdrawn or reduced by virtue of section 257BD (no linked loans requirement),
  - (c) the SEIS relief falls to be withdrawn or reduced under –
    - (i) section 257FA (disposal of shares),
    - (ii) section 257FC (call options), or
    - (iii) section 257FD (put options), or
  - (d) the SEIS relief falls to be withdrawn or reduced under section 257FE (receipt of value by the investor), or would fall to be so withdrawn or reduced but for section 257FN (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 257FE, or would be within that section but for section 257FN, and
  - (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).
- (4) In subsection (3) “qualifying receipt” and “replacement value” are to be read in accordance with section 257FN.

#### **257GF 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 257CC (spending of the money raised) is not met in respect of any of the shares included in the issue, or would not be met if SEIS 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 SEIS relief had been obtained in respect of the shares in question, or
  - (c) either of the provisions of Chapter 6 mentioned in subsection (2) has effect to cause any SEIS relief attributable to any of the shares included in the issue to be withdrawn or reduced, or –
    - (i) would have such an effect if SEIS relief had been obtained in respect of the shares in question, or
    - (ii) in the case of section 257FE, would have such an effect but for section 257FN (receipt of replacement value).
- (2) The provision are –
- (a) section 257FE (value received by the investor), and
  - (b) section 257FP (acquisition of a trading asset).
- (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 257FH(2) from a person connected with the company (see section 257FM), 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 257FE, or would be within that section but for section 257FN, and
  - (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 257FN.

**257GG Power to require information where section 257GE or 257GF 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 257GE or 257GF in respect of any event, or

- (b) has given or received value within the meaning of section 257FH(2) or (8) 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.
- (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 257FG(2).

### 257GH Power to require information in other cases

- (1) Subsection (2) applies if SEIS 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 arrangements or scheme as is mentioned in –
- (a) section 257BE or 257DC(2) or (4) (no tax avoidance),
  - (b) section 257BC (no related investment arrangements),
  - (c) section 257CD(1) (no pre-arranged exits),
  - (d) section 257CF (no disqualifying arrangements),
  - (e) section 257DD(4) (winding up, administration etc), or
  - (f) section 257DH(1) or (2) (conditions ceasing to be met).
- (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 –
- (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 and any person connected with the company

<i>Provision</i>	<i>The person concerned</i>
Subsection (1)(d)	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 claimant, the company, any other company in question and any person controlling the company or any other company in question
Subsection (1)(f)	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 257H (spouses or civil partners) of any of the shares in question.

- (5) If SEIS 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 257FE, 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 SEIS 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.

### **257GI 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 SEIS relief has been obtained or claimed in respect of a particular number or proportion of its shares.

## **CHAPTER 8**

### **SUPPLEMENTARY AND GENERAL**

#### *Disposals of shares*

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

- (1) This section applies if –

- (a) shares to which an amount of SEIS relief is attributable were issued to an individual (“A”),
  - (b) A transferred the shares to another individual (“B”) during their lives,
  - (c) A was married to, or was the civil partner of, B at the time of the transfer, and
  - (d) 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 –
- (a) B were the individual who had subscribed for the shares,
  - (b) the amount that B had subscribed for the shares were the amount that A had subscribed for them,
  - (c) 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,
  - (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, EIS relief or deferral relief is attributable,
  - (b) next any to which SEIS relief is attributable;
  - (c) next any to which deferral relief or EIS relief (or both) is 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 –
  - “deferral relief” has the same meaning as in Schedule 5B to TCGA 1992;
  - “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).

*Nominees etc*

**257HB 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*

**257HC Meaning of “new qualifying trade”**

- (1) For the purposes of this Part “new qualifying trade”, in relation to the issuing company, means a qualifying trade which, at the time the company begins to carry it on, is a genuine new venture.
- (2) Without prejudice to the generality of subsection (1), a trade (“the relevant trade”) carried on by the issuing company is not a genuine new venture if subsection (3) or (6) applies.
- (3) This subsection applies if –
  - (a) the issuing company has, at any time during the period of 6 months ending with the time when it begins to carry on the relevant trade, carried on another trade consisting of the activities of which the relevant trade consists (or most of them), or

- (b) the issuing company carries on the trade as a result of a transfer.
- (4) The issuing company carries on a trade as a result of a transfer if it begins to carry on the trade on another person ceasing to carry on the activities of which it consists (or most of them) in consequence of arrangements involving the issuing company and the other person.
- (5) This subsection applies if –
  - (a) the company is a party to arrangements under which it may (at any time during period B) carry on, as part of the trade, activities carried on by any other person, and
  - (b) the trade would have been prevented by subsection (3)(b) from being a genuine new venture had –
    - (i) the issuing company begun to carry on the activities when beginning to carry on the trade, and
    - (ii) the other person at that time ceased to carry them on.
- (6) In this section “qualifying trade” has the same meaning as in Part 5 (see sections 189 and 192 to 200).

#### **257HD 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.
 This is subject to subsection (3).
- (2) Activity A is –
  - (a) the carrying on of a new qualifying trade which, on the date the relevant shares are issued, 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, and
    - (ii) which is begun to be carried on by the company.
- (3) But activity A is not a qualifying business activity if, and to the extent that, it consists of an acquisition of shares or stock in a company.
- (4) Activity B is the carrying on of research and development –
  - (a) which, on the date the relevant shares are issued, the company is carrying on, or which the company 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 will carry on will be derived, or
    - (ii) that a new qualifying trade which the company is carrying on, or will carry on, will benefit.

#### **257HE 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.

#### **257HF 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).

#### **257HG 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;
  - “ordinary shares” means shares forming part of a company’s ordinary share capital;
  - “period A” and “period B” have the meaning given by section 257AC;
  - “permanent establishment” has the same meaning as in Part 5 (see section 191A);
  - “qualifying business activity” has the meaning given by section 257HD.
- (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 257DH(1)(a),
  - (b) section 257FP, and
  - (c) 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 not 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.
- (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 obtains 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.”

## PART 2

### CONSEQUENTIAL AMENDMENTS

#### ITA 2007

- 2 In section 2 of ITA 2007 (overview of Act), after subsection (5) insert –
  - “(5A) Part 5A is about relief under the seed enterprise investment scheme.”
- 3 In section 26 of that Act (tax reductions), in subsection (1)(a), after the entry for Chapter 1 of Part 5, insert –
  - “Chapter 1 of Part 5A (SEIS relief),”.
- 4 In section 27 of that Act (order of deducting tax reduction: individual), in subsection (5), after the entry for “Chapter 2 of Part 6 (VCT relief)” insert –
  - “Chapter 1 of Part 5A (SEIS relief),”.
- 5 In section 172 of that Act (overview of Chapter 3), after paragraph (aa) insert –
  - “(ab) the spending of money raised by SEIS investments (see section 173B),”.

6 In section 173A of that Act (enterprise investment scheme: maximum amount raised annually through risk capital schemes requirement), in subsection (3)(b) –

- (a) after sub-paragraph (i) (and the “or” at the end of it) insert –
  - “(ia) a compliance statement under section 257ED (seed enterprise investment scheme).”, and
- (b) omit sub-paragraph (ii).

7 After that section insert –

**“173B The spending of money raised by SEIS investment requirement**

- (1) The requirement of this section is that, if an SEIS investment has been made in the issuing company, at least 75% of the money raised by the investment has been spent as mentioned in section 257CC (seed enterprise investment scheme: spending of the money raised requirement) before the relevant shares are issued.
- (2) An “SEIS investment” is made in a company if the company issues shares (money having been subscribed for them), and (at any time) the company provides a compliance statement under section 257ED (seed enterprise investment scheme).”

8 In section 239 of that Act (date from which interest is chargeable), in subsection (2) for “sections 181 to 188” substitute “sections 180A to 188”.

9 (1) Section 246 (identification of shares on a disposal) is amended as follows.

(2) In subsection (3) –

- (a) in paragraph (a) for “neither EIS relief nor deferral relief” substitute “no EIS relief, deferral relief or SEIS relief”,
- (b) after that paragraph insert –
  - “(aa) next any to which SEIS relief is attributable.”

(3) In subsection (7), at the end, insert –

“SEIS relief” means relief under Part 5A (seed enterprise investment scheme).”

10 In section 286 of that Act (qualifying holdings: introduction), in subsection (3), after paragraph (ea) insert –

- “(eb) the spending of money raised by SEIS investment (see section 292B).”.

11 In section 292A of that Act (venture capital trusts: maximum amount raised annually through risk capital schemes requirement), in subsection (3)(b) –

- (a) after sub-paragraph (i) (and the “or” at the end of it) insert –
  - “(ia) a compliance statement under section 257ED (seed enterprise investment scheme).”, and
- (b) omit sub-paragraph (ii).

12 After that section insert –

**“292B The spending of money raised by SEIS investment requirement**

- (1) The requirement of this section is that, if an SEIS investment has been made in the relevant company, at least 75% of the money raised by the investment has been spent as mentioned in section 257CC (seed

enterprise investment scheme: the spending of the money raised requirement) before the issue of the relevant holding.

- (2) An “SEIS investment” is made in a company if the company issues shares (money having been subscribed for them), and (at any time) the company provides a compliance statement under section 257ED (seed enterprise investment scheme).”

#### TCGA 1992

- 13 (1) Section 150A of TCGA 1992 (enterprise investment scheme) is amended as follows.
- (2) For “relief”, in each place it occurs, substitute “EIS relief”.
- (3) In subsection (6) –
- (a) leave out the “and” at the end of paragraph (b) and after that paragraph insert –
- “(ba) shares to which SEIS relief is attributable; and”, and
- (b) after “paragraph (a), (b),” insert “(ba),”.
- (4) In subsection (10) for “the relief” substitute “EIS relief”.
- (5) In subsection (10A), at the appropriate place, insert –
- ““EIS relief” means relief under Part 7 of the Taxes Act or Part 5 of ITA 2007;”.
- 14 (1) Section 150B of that Act (enterprise investment scheme: reduction of relief) is amended as follows.
- (2) For “relief”, in each place it occurs, substitute “EIS relief”.
- (3) After subsection (5) insert –
- “(5A) In this section “EIS relief” means relief under Part 7 of the Taxes Act or Part 5 of ITA 2007.”
- 15 Before section 151 of that Act insert –
- “150E Seed enterprise investment scheme**
- (1) For the purpose of determining the gain or loss on any disposal of shares by an individual where –
- (a) an amount of SEIS relief is attributable to the shares, and
- (b) apart from this subsection there would be a loss,
- the consideration given by the individual for the shares is to be treated as reduced by the amount of the relief.
- (2) Where –
- (a) shares are disposed of by an individual after the end of the period referred to in section 257AC(2) of ITA 2007,
- (b) an amount of SEIS relief is attributable to the shares, and
- (c) (apart from this subsection) there would be a gain,
- the gain is not a chargeable gain.
- (3) Despite section 16(2), subsection (2) does not apply to a disposal on which a loss accrues.

- (4) Subsection (5) applies where –
- (a) an individual’s liability to income tax has been reduced (or treated by virtue of section 257H of ITA 2007 (spouses and civil partners) as reduced) for any tax year under section 257AB of that Act in respect of an issue of shares,
  - (b) the amount of the reduction (“R”) is less than the amount (“T”) which is equal to tax at the basic rate for that year on the amount subscribed for the issue, and
  - (c) R is not within paragraph (b) solely by virtue of section 29(2) and (3) of ITA 2007.
- (5) If there is a disposal of the shares on which there is a gain, subsection (2) applies only to so much of the gain as is found by multiplying it by the fraction –

$$\frac{R}{T}$$

- (6) Any question as to –
- (a) which of any shares that –
    - (i) are acquired by an individual at different times, and
    - (ii) are shares to which SEIS relief is attributable,a disposal relates to, or
  - (b) whether a disposal relates to shares to which SEIS relief is attributable,
- are to be determined as for the purposes of section 257HA of ITA 2007.  
Chapter 1 of this Part has effect subject to this subsection.
- (7) Sections 104, 105 and 106A do not apply to shares to which SEIS relief is attributable.
- (8) Where –
- (a) an individual holds shares (“the existing holding”) which form part of the ordinary share capital of a company,
  - (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and
  - (c) immediately following the reorganisation, SEIS relief is attributable to the existing holding or the allotted shares,
- sections 127 to 130 do not apply in relation to the existing holding.
- (9) Sections 135 and 136 do not apply in respect of shares to which SEIS relief is attributable.
- (10) Subsection (9) does not have effect to disapply section 135 or 136 where –
- (a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future right to be redeemed,

- (b) the new shares are issued after the end of the relevant period, and
  - (c) the condition in subsection (11) is satisfied.
- (11) The condition is that at some time before the issue of the new shares—
- (a) the company issuing them issued eligible shares, and
  - (b) a certificate in relation to those eligible shares was issued by the company for the purposes of section 257EB(1) of ITA 2007 and in accordance with sections 257EC and 257ED of that Act.
- (12) All such adjustments of capital gains tax are to be made, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the SEIS relief being given or withdrawn.
- (13) For the purposes of this section—
- “eligible shares” means shares that meet the requirements of section 257CA(2);
  - “ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital (within the meaning of section 989 of ITA 2007);
  - “new holding” is to be construed in accordance with sections 126, 127, 135 and 136;
  - “relevant period” means the period found by applying section 257AC(2) of ITA 2007 by reference to the company issuing the shares referred to in subsection (9) and by reference to those shares;
  - “SEIS relief” means relief under Part 5A of ITA 2007 (seed enterprise investment scheme);
- and that Part applies to determine whether SEIS relief is attributable to any shares and, if so, the amount of SEIS relief so attributable.

#### **150F Seed enterprise investment scheme: reduction of relief**

- (1) This section has effect where—
- (a) section 150E(2) applies on a disposal of shares, and
  - (b) before the disposal, value is received in circumstances where SEIS relief attributable to the shares is reduced by an amount under section 257FE(2)(a) of ITA 2007.
- (2) If section 150E(2) applies on the disposal but section 150E(5) does not, section 150E(2) applies only to so much of the gain as remains after deducting so much of it as is found by multiplying it by the fraction—

$$\frac{A}{B}$$

where—

“A” is the amount by which the SEIS relief attributable to the shares is reduced as mentioned in subsection (1), and

“B” is the amount of the relief attributable to the shares.

- (3) If section 150E(2) and (5) apply on the disposal, section 150E(2) applies only to so much of the gain as is found by –
  - (a) taking the part of the gain found under section 150E(5), and
  - (b) deducting from that part so much of it as is found by multiplying it by the fraction mentioned in subsection (2) above.
- (4) Where the SEIS relief attributable to the shares is reduced as mentioned in subsection (1) by more than one amount, “A” in subsection (2) is to be taken to be equal to the aggregate of the amounts.
- (5) The amount which is “B” in subsection (2) is to be found without regard to any reduction mentioned in subsection (1).
- (6) For the purposes of this section, Part 5A of ITA 2007 (seed enterprise investment scheme) applies to determine whether SEIS relief is attributable to any shares and, if so, the amount of SEIS relief so attributable.”

#### TMA 1970

- 16 In section 98 of TMA 1970 (special returns, etc) –
  - (a) in the first column of the Table, after the entry for “sections 242 and 243(1) and (2) of ITA 2007” insert –

“sections 257GG and 257GH(1) and (2) of ITA 2007;”,  
and
  - (b) in the second column of that Table, after the entry for “sections 240 and 241 of ITA 2007” insert –

“sections 257GE and 257GF of ITA 2007;”.

### PART 3

#### COMMENCEMENT

- 17 (1) Subject to sub-paragraph (2), the amendments made by this Schedule have effect in relation to shares issued on or after 6 April 2012.
- (2) The amendments made by paragraphs 10 to 12 have effect for the purpose of determining whether shares or securities issued on or after 6 April 2012 are to be regarded as comprised in a company’s qualifying holdings.

**EXPLANATORY NOTE**

**SEED ENTERPRISE INVESTMENT SCHEME**

**SUMMARY**

1. This clause and Schedule set out the new Seed Enterprise Investment Scheme (SEIS), which is designed to incentivise investment in small, early stage companies.

**DETAILS OF THE SCHEDULE**

*Part 1 of the Schedule*

2. Paragraph 1 of the Schedule introduces a new Part 5A to Income Tax Act 2007 (ITA), containing the rules for the new scheme.

*Chapter 1 of New Part 5A of ITA*

3. New section 257A defines SEIS income tax relief and provides that it will apply to shares issued on or after 6 April 2012 and before 6 April 2017. The new scheme is therefore of fixed length, but can be extended by a Treasury order.
4. New section 257AA provides that an investor is eligible for relief in respect of shares issued to him or her where particular requirements are met. There are requirements which apply to the investor, general requirements, and requirements that apply to the issuing company. These requirements are in Chapters 2 – 4 of new Part 5A.
5. New section 257AB provides that the relief is a reduction of income tax calculated as 50 percent of the amount the investor subscribes for shares, subject to an overall limit on the amount of relief that can be received in any one year.
6. New section 257AB(5) allows an investment or part of an investment made in one year to be treated as though made in the previous year (but not in the first year that the new scheme operates), subject to the overall limit for a year.
7. New section 257AC defines two periods of time with respect to which many of the SEIS conditions operate. Period A runs from the company's incorporation to the third anniversary of the share issue (defined at new section 257AC(4) as the "termination date"). Period B runs from the issue of the shares to the termination date.

8. New section 257AD is an overview of Chapters 5 – 8 of new Part 5A, which deal with the making of claims, withdrawal of relief, and supplementary matters.
9. New section 257AE mentions new Section 150E of TCGA 1992, which provides a capital gains disposal relief for shares which qualify for SEIS relief.

*Chapter 2*

10. New section 257B is an overview of Chapter 2 which contains the conditions which apply to the SEIS investor.
11. New section 257BA provides that neither SEIS investors nor their associates may be employees of the company in period A (unless also a director).
12. New section 257BB provides that SEIS investors must not have a “substantial interest” in the company, defined at new section 257BF as having more than a 30 per cent stake in the company through ordinary or issued share capital, voting power or rights on winding up, or as having control of the company.
13. New section 257BC provides that SEIS investors must not subscribe for the shares as part of a wider arrangement which includes somebody else subscribing for shares in a company in which the investor – or anyone else party to the arrangement – has a substantial interest.
14. New section 257BD provides that there must be no loans to the investor or their associates which are linked to their subscription for shares.
15. New section 257BE requires the subscription for shares to be for genuine commercial reasons, and not as part of a tax avoidance arrangement.
16. New Section 257 BF defines when a person has a “substantial interest” in a company.

*Chapter 3*

17. New section 257C is an overview of Chapter 3 which contains the general requirements under SEIS.
18. New section 257CA sets out the sorts of shares for which investors can subscribe under the scheme, allowing for shares carrying certain preferential rights to dividends. Shares are still excluded if: they carry preferential rights to assets on winding up; any right to be redeemed; if the amount and timing of the dividends depend on a

decision of the company or any other person; or if they are cumulative. This new definition is the same as that introduced for VCTs in Finance (No 3) Act 2010 and which is also being introduced for EIS.

19. New section 257CA(4) provides that shares must be subscribed for wholly in cash, fully paid up at the time they are issued and must be held by the investor throughout period B.
20. New section 257CB requires that the shares be issued to raise money for a qualifying business activity (defined at new section 257HD).
21. New section 257CC requires that the money raised from the share issue must be spent by the end of period B.
22. New section 257CD prevents “pre-arranged exits”, which are any arrangements in place (at the time the shares are issued) for the disposal of shares or securities in the company or its assets, or for its activities to cease, or for the investment to be protected from normal commercial risks.
23. New section 257CE requires the issue of shares to be for genuine commercial reasons, and not as part of a tax avoidance arrangement.
24. New section 257CF is the “no disqualifying arrangements” requirement. Arrangements are “disqualifying” if they are entered into with the purpose of ensuring that any of the venture capital scheme tax reliefs are available in respect of the relevant company’s business, and either: all or most of the monies raised under the scheme are paid to or for the benefit of a party to the arrangements; or in the absence of the arrangements, it would be reasonable to expect that the business would be carried on as part of another business. This is the same requirement that is being introduced for the EIS and VCT schemes.

*Chapter 4*

25. New section 257D is an overview of Chapter 4 which contains the conditions that apply to the company.
26. New section 257DA provides that the company must not have been incorporated more than two years before the shares are issued.
27. New section 257DB is the “purpose of existence” condition, requiring that the company’s main purpose throughout period B (and since incorporation) must be to carry on a new qualifying trade or trades.
28. New section 257DC provides that the purpose of existence test is not breached due to anything that happens because of the company being

in administration or receivership, or being dissolved or wound up, provided that this is done for genuine commercial reasons and not as part of a tax avoidance arrangement.

29. New section 257DD provides that the issuing company itself must, throughout period B, carry on the new qualifying trade and any preparation work or R&D leading to it.
30. New section 257DD(3) provides that this requirement is not breached due to the new qualifying trade being taken over by an unconnected person because of the company being in administration or receivership, or being dissolved or wound up, provided that this is done for genuine commercial reasons and not as part of a tax avoidance arrangement.
31. New section 257DE requires the company to have a permanent establishment in the United Kingdom throughout period B.
32. New section 257DF requires the company not to be “in difficulty” at the beginning of period B. This means it must not be a “firm in difficulty” under European Commission guidelines.
33. New section 257DG requires the company to be “unquoted” at the beginning of period B and provides that there must be no arrangements at that time for it to cease to be unquoted.
34. A company is “unquoted” if its securities are not marketed to the general public – defined in new section 257DG(3) as being listed on a recognised stock exchange, listed on a designated exchange outside the UK, or dealt with, outside the UK, by any such means as may be designated.
35. New sections 257DG(4) and (5) provide for the Commissioners of HMRC to make the designations referred to in new section 257DG(3).
36. New section 257DH contains the control and independence requirement:
  - The control part of the requirement is that the company may not, in period B, control any other company – either alone or with any connected person – and nor must there be any arrangements for it to do so (whether in period B or outside it). It may not, therefore, have any subsidiaries in period B.
  - The independence part of the requirement is that the company may not, in period B, be under the control of any other company – either alone or with any connected person – and nor must there be any arrangements for this to happen (whether in period B or outside it). It may not, therefore, be a subsidiary in period B.

37. New section 257DI requires that the company must not be a member of either a partnership or a limited liability partnership (or any foreign equivalent) at any time in period A.
38. New section 257DJ is the gross assets requirement. Immediately before the shares are issued, the total value of the company's assets and of the appropriate proportion of any partner entity's assets, must not exceed £200,000.
39. New section 257DJ(2) defines "partner entity" according to Commission Regulation (EC) No 800/2008 (General block exemption regulations). An entity is a partner of the company if it holds more than 25 per cent of the capital and voting rights in the company. The appropriate proportion of assets to be added to the issuing company's assets is then the other entity's proportionate holding of capital or voting rights, whichever is the greater.
40. New section 257DK is the number of employees requirement. At the time the shares are issued, the company's full time equivalent number of employees must be less than 25. Again, the appropriate proportion of any partner entity's number of employees must be added to those of the issuing company.
41. New section 257DL provides that the company must not have previously raised money under either the EIS or VCT schemes.
42. New section 257DM provides that a company may raise no more than £150,000 in total under SEIS.
43. Where a share issue takes the total amount raised above £150,000, the investment in the share issue is apportioned so that relief is given on no more than £150,000 of shares in the company.

*Chapter 5*

44. New section 257E contains rules setting out how relief given to an individual is to be attributed to shares for which the individual has subscribed.
45. New section 257EA provides that SEIS relief cannot be claimed until 70 per cent of the money raised by the issue has been spent, nor can it be claimed more than five years after the SA filing deadline for the year in which the shares are issued.
46. New section 257EB provides that the investor can only claim relief if he or she has a compliance certificate from the company for the shares.
47. New section 257EC defines a compliance certificate. This is a certificate issued by the company stating that the shares meet the

requirements for SEIS relief (excluding those requirements that are dependent on the investor).

48. Subsection (2) provides that a certificate cannot be issued until 70 per cent of the money raised by the issue has been spent.
49. Subsection (3) provides that a certificate cannot be issued until the company has supplied a compliance statement to HMRC and subsection (4) that it must have authority from HMRC to issue a certificate.
50. New section 257ED defines a compliance statement. This is a statement that the requirements for SEIS are being or have been met (excluding those requirements that are dependent on the investor).
51. New section 257EE provides for an appeal against a decision by HMRC not to authorise a compliance certificate.
52. New section 257EF prescribes a maximum penalty of up to £3,000 where a company negligently or fraudulently issues a certificate or statement or issues one in breach of the conditions in new section 257EC.
53. New section 257EF allows the Treasury, by order, to amend new sections 257EC and 257ED. This is intended to allow changes in the administrative processes without the need for primary legislation.

*Chapter 6*

54. New section 257F is an overview of Chapter 6 which contains provisions dealing with the withdrawal of relief given for SEIS shares (“relevant shares”). Many of the provisions in Chapter 6 are counterparts to conditions contained in the preceding chapters, setting out what happens when those conditions are breached.
55. New section 257FA withdraws relief where, before the end of period B, the investor disposes of shares for which SEIS relief has been given. In particular, it contains computational rules setting out how much relief is to be withdrawn. New section 257FB supplements those rules
56. New sections 257FC and 257FD withdraw relief where the investor holds a call or put option in relation to the relevant shares.
57. New section 257FE withdraws relief where during period A the investor receives any value from the company relating to the relevant shares.
58. New section 257FF provides that relief is not withdrawn where the value received is insignificant (defined in new section 257FG).

59. New section 257FH defines a number of different circumstances in which value is received. These cover various ways in which the company might make payments to the investor. A number of circumstances are excluded – for example where the investor is a director of the company and is reimbursed expenses incurred in performance of his or her duties.
60. New section 257FI defines the amount of value received in the various cases described by new section 257FH.
61. New sections 257FJ – 257FO contain supplementary provisions concerning the receipt of value in particular circumstances.
62. New section 257FP withdraws relief where, during period A, the company takes over assets previously used by another person in their trade, and the investor either had or has more than a half share in the trade, or controls or has controlled the issuing company and controls or has controlled the company which previously carried on the trade.
63. New section 257FQ withdraws relief given where, at some later date, it is found not to have been due.

*Chapter 7*

64. New section 257G provides for relief to be withdrawn or reduced by making an assessment.
65. New section 257GB sets a time limit for any such assessment, which must be made within 6 years of the end of whichever is the later of the tax year in which period B ends, or the tax year in which the event causing the withdrawal or reduction occurs.
66. New section 257GC sets out cases where no such assessment may be made.
67. New section 257GD provides that when an assessment is made under new section 257G to withdraw relief as prescribed by particular provisions of Chapters 2, 4 and 5, interest is to be charged from 31 January following the tax year in which the assessment is made.
68. New section 257GE requires the investor to notify HM Revenue and Customs if he or she ceases to be a qualifying investor, or if relief should be withdrawn for one of a number of specified reasons and new section 257 DF places a similar requirement on the company.
69. New section 257GG gives HM Revenue and Customs power to require information where either new section 257GE or new section 257GF applies or could have applied.

70. New section 257GH gives HM Revenue and Customs a power to require information in other cases, specifying from whom information may be required in various different circumstances.
71. New section 257GI allows HM Revenue and Customs to disclose to a company that SEIS relief has been obtained in respect of its shares.

*Chapter 8*

72. New section 257H allows for transfers of shares between spouses or civil partners not to be treated as a disposal. The SEIS relief remains attributable to the shares until a disposal or other relevant event by the spouse or civil partner to whom they were transferred.
73. New section 257HA sets out rules determining which shares are treated as having been disposed of under either new section 257FA or 257H.
74. New section 257HB contains provisions applying to nominees and bare trustees.
75. New section 257HC defines a “new qualifying trade”.
76. The main requirement of the section is in new section 257HC(1) which states that the trade must be a genuine new venture.
77. New section 257HC(2) provides that two particular circumstances do not constitute such a genuine new venture.
78. New section 257HC(3) covers the first case. This is where either the issuing company itself has carried on the same activities that constitute the trade within the previous six months, or where the trade has been transferred to the company.
79. New section 257HC(4) defines a transfer as taking place where the issuing company takes over the trade from another person who has carried it on as a result of arrangements involving the two parties.
80. New section 257HC(5) covers the second case. This is where the issuing company is a party to arrangements to take on a trade,
81. New section 257HD defines “qualifying business activity” as either carrying on, or preparing to carry on, a new qualifying trade, or carrying on R&D from which a new qualifying trade will be developed (or which will benefit a new qualifying trade).
82. New sections 257HE and 257HF define the terms “disposal of shares” and “issue of shares”.

83. New section 257HG contains a number of definitions of terms used elsewhere in part 5A.

*Part 2 of the Schedule*

84. Part 2 makes consequential amendments to ITA (and in particular to the existing EIS and VCT rules in that Act) and to the Taxation of Chargeable Gains Act 1992 (TCGA)
85. Paragraph 2 of the schedule amends the overview of ITA, adding a reference to the new Part 5A.
86. Paragraphs 3 and 4 amend sections 26 and 27, which form part of the computational rules for income tax liability, to add SEIS relief.
87. Paragraphs 5 and 7 amend the EIS rules to add a new requirement, that before a company can issue shares qualifying under EIS it must have spent at least 75 per cent of any money raised under SEIS, and paragraphs 10 and 12 make similar amendments to the VCT rules.
88. Paragraph 6 amends the EIS rule limiting the annual amount a company may raise under the venture capital schemes so that it takes account of any money raised under SEIS. Paragraph 11 makes similar changes to the limit in the VCT rules.
89. Paragraphs 8 and 9 make consequential amendments.
90. Paragraphs 13 to 15 introduce a capital gains tax disposal relief for SEIS shares at sections 150E and 150F of the Taxation of Chargeable Gains Act 1992 that mirrors that available for enterprise investment scheme shares at sections 150A and 150B of that Act, and make consequential amendments.
91. Paragraph 16 makes amendments to section 98 of TMA 1970, which are consequential on the information powers in new sections 257GE – 257GH.

**BACKGROUND NOTE**

92. The Chancellor announced at Budget 2011 that the Government would bring forward proposals for support for investment in small, early stage companies, in addition to that provided by the Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs).
93. A consultation document, "Tax-advantaged venture capital schemes: a consultation" was published on the Treasury website on 6 July 2011 setting out proposals and seeking views on a number of design issues.
94. Views expressed in response to the consultation have been taken into account in developing the new SEIS relief. The Government's response to the consultation was published on 6 December 2011 and is available on the HMT website.
95. If you have any questions about this change, or comments on the legislation, please contact Kathryn Robertson on 020 7147 2589 (email: [kathryn.robertson@hmrc.gsi.gov.uk](mailto:kathryn.robertson@hmrc.gsi.gov.uk)) or Des Ryan on 020 7147 0818 (email: [des.ryan@hmrc.gsi.gov.uk](mailto:des.ryan@hmrc.gsi.gov.uk)).